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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1219

[Doc. No. FV–06–701–FR]

Amendment to the Hass Avocado Promotion, Research, and Information Order: Adjust Representation on the Hass Avocado Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adjusts the number of members on the Hass Avocado Board (Board) to reflect changes in the production of domestic Hass avocados in the United States and the volume of imported Hass avocados into the U.S. over the 2003, 2004, and 2005 calendar years, which are three years after assessments commenced. These adjustments are required by the Hass Avocado Promotion, Research, and Information Order (Order). The results of the adjustment is one additional importer member and alternate and one less domestic producer member and alternate of Hass avocados that are subject to assessments. As a result of these changes, the Board membership will be composed of seven domestic producer members and alternates and five importer members and alternates. Currently, the Board is composed of eight domestic producer members and alternates, and four importer members and alternates. These changes to the Board are effective for the Secretary of Agriculture's 2006 appointments.

EFFECTIVE DATE: October 5, 2006.

FOR FURTHER INFORMATION CONTACT: Marlene M. Betts, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535–S, Washington, DC 20250–0244, telephone (202) 720–9915, fax (202) 205–2800, or e-mail *Marlene.Betts@usda.gov*.

SUPPLEMENTARY INFORMATION: The Hass Avocado Promotion, Research, and Consumer Information Order (Order) is issued under the Hass Avocado Promotion, Research, and Information Act of 2000 (Act) [7 U.S.C. 7801–7813].

Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. Section 1212(c) of the Hass Avocado Promotion, Research, and Information Act of 2000 states that the Act may not be construed to preempt or supersede any other program relating to Hass avocado promotion, research, industry information, and consumer information organized and operated under the laws of the United States or of a State.

Under Section 1207(a)(1) of the Hass Avocado Promotion, Research, and Information Act of 2000, a person subject to the Order may file a petition with the Department of Agriculture (USDA) stating that the Order, any provision for the Order, or any obligation imposed in connection with the Order, is not established in accordance with law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later that 20 days after the date of the entry of USDA's final ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq*.], the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. In accordance with the provision of the Act and section 1219.30 of the Order, this rule merely adjusts representation on the Board to reflect changes in production levels of domestic Hass avocados in the U.S. and the volume of imported Hass avocados into the U.S. over the 2003, 2004, and 2005 calendar year. There are approximately 20,000 producers and 200 importers, covered by the Hass avocado program. The Small Business Administration [13 CFR 121.201] defines small agricultural producers as those having annual receipts of $750,000 or less annually and small agricultural service firms as those having annual receipts of $6.5 million or less. Importers would be considered agricultural service firms. Using these criteria, most producers and importers covered by the program would be considered small businesses under the criteria established by the Small Business Administration (13 CFR 121.201).

At its January 2006 meeting, the Board reviewed the production for the domestic Hass avocados in the U.S. and the volume of imported Hass avocados over the 2003, 2004, and 2005 calendar years and decided to recommend one additional member and alternate member for importers and one less member and alternate for domestic producers of Hass avocados that are subject to the assessment. The total average combined volume of Hass avocados produced in the U.S. and imported into the U.S. for the 2003, 2004, and 2005 calendar years was 712 million pounds. Of this amount, 53.2 percent was Hass avocados imported into the U.S. and 46.8 percent was domestically produced Hass avocados.

Representation on the Board (12) is comprised of: (1) Seven producer members and their alternates; (2) two

importer members and their alternates; and, (3) three producer or importer members and their alternates, also known as the ''swing seats.'' Under the Act and Order the three ''swing seats'' are allocated so as to reflect as nearly as possible the proportion of domestic production and imports supplying the U.S. market. The proportion is based on the average volume of domestic production and the average volume of imports into the U.S. market over the previous three years. With regard to alternatives, the adjustments to the three ''swing seats'' in this rule are in conformance with the provisions of the Act and Order. This rule merely adjusts representation on the Board to provide the ''swing seats'' with three importer members and imposes no new burden on the industry.

There are no relevant Federal rules that duplicate, overlap, or conflict with this rule.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581–0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved.

Background

The Hass Avocado Promotion, Research, and Information Act of 2000 (7 U.S.C. 7801–7813) provides for the establishment of a coordinated program of promotion, research, industry information, and consumer information designed to strengthen the avocado industry's position in the domestic marketplace, and to maintain, develop, and expand markets and uses for Hass avocados in the domestic marketplace. The program is financed by an assessment of 2.5 cents per pound on fresh Hass avocados produced and handled in the U.S. and on fresh Hass avocados imported into the U.S. Also under the Act, the Secretary may issue regulations. Pursuant to the Act, an Order was made effective September 9, 2002. The Order established a Board of 12 members and alternates. For purposes of establishing the Board, seven members and their alternates shall be producers of Hass avocados; two members and their alternates shall be importers of Hass avocados; and, three members and their alternates shall be producers or importers of Hass avocados, also known as the ''swing seats.'' The three ''swing seats'' are allocated so as to reflect as nearly as possible the proportion of domestic production and imports supplying the U.S. market. Such proportion is determined using the average volume of domestic production and the average volume of imports into the U.S. market over the previous three years.

Section 1219.30(c) of the Order provides that at the end of three years after assessment funds began, the Board shall review the production of domestic Hass avocados in the U.S. and the volume of imported Hass avocados on the basis of the amount of assessments collected from producers and importers over the immediately preceding three-year period. The Board may recommend to the Secretary modification to the Board based on proportion of domestic production and imports supplying the U.S. market.

At its January 2006 meeting, the Board reviewed the production for the domestic Hass avocados in the U.S. and the volume of imported Hass avocados over the 2003, 2004, and 2005 calendar years and decided to recommended one additional member and alternate member for importers and one less member and alternate for domestic producers of Hass avocados that are subject to the assessment. The total average combined volume of Hass avocados produced in the U.S. and imported into the U.S. for the 2003, 2004, and 2005 calendar years was 712 million pounds. Of this amount, 53.2 percent was Hass avocados imported into the U.S. and 46.8 percent was domestically produced Hass avocados.

Representation on the Board (12) is comprised of: (1) Seven producer members and their alternates; (2) two importer members and their alternates; and, (3) three producer or importer members and their alternates, also known as the ''swing seats.'' Under the Act and Order the three ''swing seats'' are allocated so as to reflect as nearly as possible the proportion of domestic production and imports supplying the U.S. market. The proportion is based on the average volume of domestic production and the average volume of imports into the U.S. market over the previous three years.

The current 12 member Board is composed of eight producer members and alternates, and four importer members and alternates; meaning (1) seven producer members and alternates; (2) two importer members and alternates; and, (3) of the three ''swing seats'' two are currently importer member and alternate seats and one is a producer member and alternate seat.

On May 9, 2006, an interim final rule concerning this action was published in the **Federal Register**. Copies of the rule were made available through the Internet by USDA and the Office of the Federal Register. The rule provided a 60-day comment period which ended July 10, 2006. Two comments were received, both of which were favorable.

The commenters' support the rule that adjusts the number of producer and importer members on the Hass Avocado Board. The commenters' support the adjustment to the Board that would give the three ''swing seats'' to the importers. In addition, the commenters state that it is important that the change be made as part of the Secretary's 2006 appointments so that members currently serving could complete their terms of office and easily seat the new members at the start of the Board's fiscal year. Both commenters support the implementation of the interim final rule as it was presented. However, one commenter was of the view that under the Act and Order, the Board had authority to conduct the administrative process leading to recommending candidates to the Secretary and that rulemaking was unnecessary to complete the process to adjust representation on the Board. We disagree. The Department properly initiated rulemaking to adjust representation on the Board and this action completes the rulemaking process.

After consideration of all relevant material presented including comments, the Board's recommendation, and other information, the interim final rule, as published in the **Federal Register** (71 FR 26821) on May 9, 2006, is adopted as a final rule.

Representation on the Board based on the changes in the production of domestic Hass avocados and the volume of imported Hass avocados into the U.S. over the 2003, 2004, and 2005 calendar year results in one additional importer member and alternate and one less producer member and alternate. Accordingly, all of the ''swing seats'' are importers' therefore, the 12-member Board will be comprised of seven producer members and alternates and five importer members and alternates effective for the Secretary of Agriculture's 2006 appointments.

List of Subjects in 7 CFR Part 1219

Administrative practice and procedure, Advertising, Consumer information, Hass avocados, Hass avocado promotion, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, under the authority of 7 U.S.C. 7801–7813 the amendments to 7 CFR part 1219 published at 71 FR 26821, May 9, 2006, are adopted as final without change.

Dated: August 24, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–7372 Filed 9–1–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125 and 135

[Docket No. 2005–23462]

RIN 2120–AI64

Thermal/Acoustic Insulation Installed on Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Disposition of comments on final rule.

SUMMARY: On December 30, 2005, the FAA published a final rule; request for comments (Amendment Nos. 91–290, 121–320, 125–50, and 135–103), on the requirements for thermal/acoustic insulation flammability (70 FR 77748). We sought public comments on those amendments, but they became effective on February 28, 2006. This action responds to the comments received on that final rule; request for comments.

ADDRESSES: You may review the public docket (Docket No. 2005–23462) in the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility is on the plaza level of the Nassif Building at the Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. Also you may review the public docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, Airframe and Cabin Safety Branch (ANM–115), Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2136, facsimile (425) 227–1149, e-mail: *jeff.gardlin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On September 20, 2000, the FAA published Notice No. 00–09, which proposed to upgrade the flammability and fire protection standards for thermal/acoustic insulation installed in transport category airplanes (65 FR 56992). The notice contained a provision that would require thermal/acoustic insulation to comply with the proposed new standards when used as replacements on airplanes already in service, as well as requirements about newly manufactured airplanes. The requirement was adopted in the final rule, published on July 31, 2003, in §§ 91.613(b)(1), 121.312(e)(1), 125.113(c)(1), and 135.170(c)(1) (68 FR 45046). These rules required operators to use replacement insulation materials meeting the requirements of § 25.856 after September 2, 2005.

For reasons discussed in the preamble, we published Amendment Nos. 91–290, 121–320, 125–50, and 135–103 on December 30, 2005, to refocus the requirements for replacement materials (70 FR 77748). Because of these amendments, only certain types of thermal/acoustic insulation are required to comply with the upgraded standards when replaced. As noted in the preamble, the revised requirements align the regulatory language more closely with the intent of the provision.

Although the immediately adopted rule revised the replacement provisions, we requested comments on the provisions. Six commenters responded to the request for comments.

Discussion of Comments

The General Aviation Manufacturers Association and Continental Airlines support the rule as written. AMIS International provided comments that were not directed at the substance of the amendments. Airbus, Boeing and the National Air Transport Association (NATA) support the rule, but suggest further changes as well.

Boeing suggests we further amend the rules so the requirements of 14 CFR part 25 match the revised requirements for replacement materials. The FAA does not agree. The intent of the part 25 rule is to upgrade the standards for thermal/acoustic insulation in the fuselage of transport category airplanes. Advisory Circular 25.856–1, Thermal/Acoustic Insulation Flame Propagation Test Method Details, dated 6/24/05, provides discussion and methods of compliance for specific installations that simplify the compliance demonstration. Conversely, the provision on replacement thermal/acoustic insulation is intended to address insulation that is often replaced. The objective of that requirement is to encourage production only of materials that comply with the new standards, as well as to purge inventories of materials that do not comply. Thus, the two provisions are complementary, and need not be the same. Since manufacturers are producing airplanes that comply with the existing requirements of § 25.856(a), the requirements are clearly feasible. Changing part 25 as requested would reduce the level of safety already achieved.

Boeing further suggests the definition of insulation provided in the final rule be included in Advisory Circular 25.856–1 and possibly § 25.856(a) to be consistent. The FAA does not agree. Amendment 91–290 *et al.*, does not ''define'' insulation. These amendments modify the applicability of requirements for insulation. That is, they specify the conditions under which we require compliance with § 25.856(a) for replacement thermal/acoustic insulation. Thus, we require no changes to the advisory circular since it pertains to compliance with § 25.856(a), and does not apply if compliance with § 25.856(a) is not required.

Boeing also suggests we change the rule to exclude blanket type insulation installed inside galley inserts or other components. These components can be replaced and it is not obvious the replacement includes insulation. The FAA does not agree. Advisory Circular 25.856–1 already addresses these components, and describes a means of compliance that does not necessitate testing in most cases. Since compliant materials are available for those cases when testing is required, the rule should remain as is.

Airbus similarly suggests we change the replacement provision to exclude blanket type insulation when bonded to interior panels, such as sidewalls or floors. Airbus notes that these are infrequently replaced and it would be difficult to change the insulation. The FAA does not agree. Although the insulation is bonded to these panels, if it is in blanket form, there are available substitutes that comply. As long as operators are aware of the particular parts that are affected, they can accommodate the upgraded materials into their maintenance plan.

Airbus also notes that it used many resources to modify its affected parts and drawings before the compliance date, and now some of that effort appears wasted. Because the issues with replacement insulation were identified very late in the process, the FAA acknowledges that Airbus' proactive

approach probably did result in changes that ultimately were not strictly required for compliance. However, these changes do improve the overall flammability of the materials and are not wasted effort.

The NATA concurred with the rule, but was concerned the now outdated part numbers associated with non-complying parts have not been purged from parts catalogs. The NATA requests the FAA help industry deal with the issue of out of date parts catalogs. Parts catalogs are not directly regulated documents, and the FAA does not typically maintain oversight of them. However, the FAA will work with operators and airframe manufacturers to help facilitate updating of the parts catalogs.

Boeing suggested a rewording of the preamble discussion of insulation that is the subject of airworthiness directives as follows: ''*Insulation that is the subject of airworthiness directives (even if that insulation is bonded to the surface of the duct and would otherwise be excluded by this rule) must still be replaced in accordance with those airworthiness directives.*''

While the FAA acknowledges the suggested rewording is more explicit, the intent is the same. This discussion in the preamble was purely a reminder, and does not introduce a requirement or deviate in any way from standard procedure. No change to the rule is required.

Conclusion

After consideration of the comments submitted in response to the final rule; request for comments, the FAA has determined that no further rulemaking action is necessary and Amendments Nos. 91–290, 121–320, 125–50, and 135–103 remain in effect as adopted.

Issued in Washington, DC, on August 25, 2006.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. E6–14632 Filed 9–1–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

19 CFR Part 101

[USCBP–2006–0057; CBP Dec. 06–23]

Establishment of New Port of Entry at Sacramento, CA; Realignment of the Port Limits of the Port of Entry at San Francisco, CA

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends the Department of Homeland Security (DHS) regulations pertaining to the field organization of the Bureau of Customs and Border Protection (CBP) by establishing a new port of entry at Sacramento, California, and terminating the user fee status of Sacramento International Airport. In order to accommodate this new port of entry, this document realigns the port boundaries of the port of entry at San Francisco, California (San Francisco-Oakland), since these boundaries currently encompass area that is included within the new port of Sacramento. This change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources to provide better service to carriers, importers, and the general public.

EFFECTIVE DATES: October 5, 2006.

FOR FURTHER INFORMATION CONTACT: Dennis Dore, Office of Field Operations, 202–344–2776.

SUPPLEMENTARY INFORMATION:

Background

In a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** (70 FR 52336) on September 2, 2005, CBP proposed to amend 19 CFR 101.3(b)(1) by establishing a new port of entry at Sacramento, California. In the notice, CBP proposed to include in the port of Sacramento the Sacramento International Airport, currently a user fee airport. In addition, CBP proposed to realign the San Francisco-Oakland port of entry since it includes area within the proposed port of Sacramento.

CBP proposed the establishment of the new port of entry because the Sacramento area satisfies the current criteria for port of entry designations as set forth in Treasury Decision (T.D.) 82–37 (Revision of Customs Criteria for Establishing Ports of Entry and Stations, 47 FR 10137), as revised by T.D. 86–14 (51 FR 4559) and T.D. 87–65 (52 FR 16328). Under these criteria, CBP evaluates whether there is a sufficient volume of import business (actual or potential) to justify the expense of establishing a new office or expanding service at an existing location. The NPRM detailed how the Sacramento area meets the criteria.

Sacramento International Airport currently is a user fee airport. User fee airports, based on the volume of their business, do not qualify for designation as CBP ports of entry. User fee airports are approved by the Commissioner of CBP to receive the services of CBP officers for the processing of aircraft entering the United States and their passengers and cargo on a fully reimbursable basis to be paid for by the airport on behalf of the recipients of the services; the airport pays a fee for the services and then seeks reimbursement from the actual users of those services.

Passenger-processing fees under 19 U.S.C. 58c(a)(5)(B) are collected from passengers at ports of entry. Because a user fee airport pays a fee on a fully reimbursable basis for the services performed by CBP, CBP does not also collect the passenger processing fee. In the notice, CBP proposed to terminate the user fee status of Sacramento International Airport, which would also terminate the system of reimbursable fees for Sacramento International Airport. Thus, if Sacramento International Airport were to become part of a CBP port of entry, the airport would then become subject to the passenger-processing fee provided for at 19 U.S.C. 58c(a)(5)(B).

The current port limits of the San Francisco-Oakland port of entry are described in Treasury Decision (T.D.) 82–9 (47 FR 1286), effective February 11, 1982, and include area within the proposed port of Sacramento. Accordingly, it was proposed that, if Sacramento is established as a port of entry as described in the NPRM, the geographical limits of the port of entry at San Francisco-Oakland would be modified. The port of entry at San Francisco-Oakland, with its modified port description, would continue to meet the criteria for port of entry status.

Analysis of Comments

Fourteen (14) comments were received in response to the September 2, 2005, NPRM. Twelve (12) of these comments were in support of the proposal.

Three (3) commenters who supported the proposal and the two (2) commenters who objected to the proposal raised issues regarding Mather Airport which is located on Mather Boulevard and Highway 50, east of

Sacramento. The three commenters who supported the proposal sought ''clarification'' as to whether Mather Airport was to be included within the boundaries of the new Sacramento port of entry. The two (2) commenters who objected to the proposal were concerned that there would be additional aircraft noise that might occur at Mather Airport if air cargo carrier workload was relocated there from Sacramento International Airport.

Mather Airport, located in Sacramento County just 12 miles from downtown Sacramento, is, in fact, located within the boundaries of the proposed CBP Port of Sacramento, California. Mather Airport has previously been located within the port of entry at San Francisco, California (San Francisco-Oakland). The reassignment of Mather airport from the port of San Francisco to the port of Sacramento will not result in any change in the functioning or processing of aircraft at that facility. CBP has no plans to relocate air cargo carrier workload from Sacramento International Airport to Mather Airport. Therefore, CBP anticipates no additional aircraft noise at Mather Airport as a result of this rule.

To address the issue of noise that might occur at Mather Airport, one of these commenters also requested a comprehensive regional plan and full environmental disclosure pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). Since Mather Airport is merely being reassigned to the port of Sacramento from the port of San Francisco and CBP has no reason to expect an increase in air cargo carrier workload at Mather Airport as a result of this change, CBP does not anticipate any environmental impact from this rule relating to Mather Airport.

Conclusion

After consideration of the comments received, CBP continues to believe that the establishment of a new port of entry at Sacramento, California, and realignment of the port boundaries of the port of entry at San Francisco, California (San Francisco-Oakland) will assist CBP in its continuing efforts to provide better service to carriers, importers and the general public. Therefore, CBP is establishing the new port of entry of Sacramento to include the territory as proposed in the notice and the port of entry description of San Francisco-Oakland will be revised as proposed in the notice.

Port Description of Sacramento, California

The port limits of the port of entry of Sacramento, California are as follows: (i) The corporate limits of Sacramento, including the adjacent territory comprised of the McClellan and Mather airports in Sacramento County; (ii) all territory on the San Joaquin River in Contra Costa and San Joaquin Counties, to and including Stockton (which includes Stockton Metropolitan Airport); (iii) from Sacramento, southwest along U.S. Interstate 80, east along Airbase Parkway, to and including the territory comprising Travis Air Force Base; (iv) all points on the Sacramento River in Solano, Yolo and Sacramento Counties, from the junction of the Sacramento River with the San Joaquin River in Sacramento County, to and including Sacramento, California; and (v) all points on the Sacramento River Deep Water Ship Channel in Solano, Yolo and Sacramento Counties, (a) from and including, the junction of Cache Slough with the Sacramento River, to and including Sacramento; and (b) from Sacramento northwest along Interstate 5 to Airport Boulevard, north along Airport Boulevard, to and including the territory comprising the Sacramento International Airport in Sacramento County. All of the territory included in the port of Sacramento is located within the State of California.

Revised Port Description of San Francisco-Oakland

The geographical limits of the port of San Francisco-Oakland are realigned to include all the territory within the corporate limits of San Francisco and Oakland and all points on the San Francisco Bay, San Pablo Bay, Carquinez Strait and Suisan Bay.

Sacramento International Airport

Sacramento International Airport is now within the boundaries of the Sacramento port of entry and will no longer be a user fee airport. It will now be subject to the passenger processing fee provided for at 19 U.S.C. 58c(a)(5)(B). The list of user fee airports at 19 CFR 122.15(b) need not be amended because ''Sacramento International Airport'' is not currently included in that list.

Authority

This change is made under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624, and section 6 U.S.C. 203 of the Homeland Security Act of 2002, Pub. L. 107–296 (November 25, 2002).

The Regulatory Flexibility Act and Executive Order 12866

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. The Office of Management and Budget has determined that this regulatory action is not significant within the meaning of Executive Order 12866. This action also will not have a significant economic impact on a substantial number of small entities. Accordingly, it is certified that this document is not subject to the additional requirements of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the establishment of a new port of entry, the modification of the port limits of an existing port of entry, and the termination of the user-fee status of an airport are not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this final rule may be signed by the Secretary of Homeland Security (or his or her delegate).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Exports, Imports, Organization and functions (Government agencies).

Amendments to Regulations

■ For the reasons set forth above, part 101 of the regulations (19 CFR part 101), is amended as set forth below.

PART 101—GENERAL PROVISIONS

■ 1. The general authority citation for part 101 and the specific authority citation for section 101.3 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

* * * * *

■ 2.The list of ports in section 101.3(b)(1) is amended by adding, in alphabetical order under the State of California ''Sacramento'' in the ''Ports of entry'' column and ''CBP Dec. 06–23'' in the ''Limits of Port'' column. Also under the State of California, the ''Limits of Port'' column for ''San Francisco-Oakland'' will be amended by deleting ''Including Benicia, Martinez, Richard, Sacramento, San Jose, and Stockton,

T.D. 82–9'' and adding ''CBP Dec. 06–23.''

Dated: August 25, 2006.

Michael Chertoff,

Secretary.

[FR Doc. 06–7393 Filed 9–1–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AM48

Forfeiture; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations concerning forfeiture of benefit payments and improved pension payments. A review of VA's adjudication regulations revealed a need for clarification and minor typographical errors. This document makes changes to provide clarification and eliminate the errors. The effect of these actions is to clarify the respective regulations.

DATES: *Effective Date:* September 5, 2006.

FOR FURTHER INFORMATION CONTACT: Trude Steele, Consultant, Compensation and Pension Service, Policy and Regulations Staff, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: At the Regional Office level, except in the VA Regional Office, Manila, Philippines, VA regulation 38 CFR 3.905(a) authorizes the Regional Counsel to determine whether the evidence warrants formal consideration as to forfeiture. In the Manila Regional Office, the Veterans Service Center Manager is authorized to make this determination. Currently, 38 CFR 3.669(a), which was published with a typographical error, states that benefit payments will be suspended effective the date of last payment upon ''receipt of notice from a Regional Counsel the Veterans Service Center Manager [sic] in the Manila Regional Office * * *.'' To clarify § 3.669(a) and to ensure consistency with § 3.905(a), this document amends § 3.669(a) to specify that, although benefit payments are generally suspended upon receipt of notice from a Regional Counsel, in cases under the jurisdiction of the Manila Regional Office, payments are suspended upon receipt of notice from the Veterans Service Center Manager.

This document also corrects a typographical error by replacing the words ''less the'' with ''less than'' in 38 CFR 3.30(b), Improved Pension—Quarterly. VA is amending this regulation for clarity and accuracy.

Administrative Procedure Act

This final rule consists of nonsubstantive changes. Accordingly, there is a basis for dispensing with prior notice and comment and the delayed effective date provisions of 5 U.S.C. 553.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act.

Executive Order 12866—Regulatory Planning and Review

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including: Having an annual effect on the economy of $100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.109, Veterans Compensation For Service-Connected Disability; and 64.110, Veterans Dependency And Indemnity Compensation For Service-Connected Death.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: August 25, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.30 [Amended]

■ 2. Section 3.30(b) is amended by removing ''less the'' and adding, in its place, ''less than''.

■ 3. Section 3.669(a) is revised to read as follows:

§ 3.669 Forfeiture.

(a) *General.* Upon receipt of notice from a Regional Counsel (or in cases under the jurisdiction of the Manila Regional Office, the Veterans Service Center Manager) that a case is being formally submitted for consideration of forfeiture of a payee's rights under § 3.905 of this part or that the payee has been indicted for subversive activities, payments will be suspended effective date of last payment.

* * * * *

[FR Doc. E6–14660 Filed 9–1–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No.: NHTSA–2006–24175]

RIN 2127–AJ88

Insurer Reporting Requirements; List of Insurers Required To File Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends regulations on insurer reporting requirements. The appendices list those passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. An insurer included in any of these appendices must file three copies of its report for the 2003 calendar year before October 25, 2006. If the passenger motor vehicle insurers remain listed, they must submit reports by each subsequent October 25.

DATES: This final rule becomes effective on November 6, 2006. Insurers listed in the appendices are required to submit reports before October 25, 2006.

FOR FURTHER INFORMATION CONTACT: Rosalind Proctor, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590, by electronic mail to *rosalind.proctor@dot.gov.* Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to 49 U.S.C. 33112, *Insurer reports and information,* NHTSA requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Pursuant to 49 U.S.C. Section 33112(f), the following insurers are subject to the reporting requirements:

(1) Issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States;

(2) Issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one state; and

(3) Rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity.

Pursuant to its statutory exemption authority, the agency exempted certain passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a state-by-state basis. The term ''small insurer'' is defined, in Section 33112(f)(1)(A) and (B), as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under state law or regulation for the issuance of motor vehicle insurance, account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a ''small insurer,'' but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular state, the insurer must report about its operations in that state.

In the final rule establishing the insurer reports requirement (52 FR 59; January 2, 1987), 49 CFR part 544, NHTSA exercised its exemption authority by listing in Appendix A each insurer that must report because it had at least 1 percent of the motor vehicle insurance premiums nationally. Listing the insurers subject to reporting, instead of each insurer exempted from reporting because it had less than 1 percent of the premiums nationally, is administratively simpler since the former group is much smaller than the latter. In Appendix B, NHTSA lists those insurers required to report for particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those states. In the January 1987 final rule, the agency stated that it would update Appendices A and B annually. NHTSA updates the appendices based on data voluntarily provided by insurance companies to A.M. Best, which A.M. Best [1] publishes in its *State/Line Report* each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-Insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA grants exemptions to self-insurers, *i.e.*, any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) used for rental or lease whose vehicles are not covered by theft insurance policies issued by insurers of passenger motor vehicles, 49 U.S.C. 33112(b)(1) and (f). Under 49 U.S.C. 33112(e)(1) and (2), NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and 33112(e)(1) and (2),

(2) The insurer's report will not significantly contribute to carrying out the purposes of Chapter 331.

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles, because it believed that the largest companies' reports sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that smaller rental and leasing companies' reports do not significantly contribute to carrying out NHTSA's statutory obligations and that exempting such companies will relieve an unnecessary burden on them. As a result of the June 1990 final rule, the agency added Appendix C, consisting of an annually updated list of the self-insurers subject to part 544. Following the same approach as in Appendix A, NHTSA included, in Appendix C, each of the self-insurers subject to reporting instead of the self-insurers which are exempted. NHTSA updates Appendix C based primarily on information from *Automotive Fleet Magazine and Auto Rental News.*[2]

C. When a Listed Insurer Must File a Report

Under part 544, as long as an insurer is listed, it must file reports on or before October 25 of each year. Thus, any insurer listed in the appendices must file a report before October 25, and by each succeeding October 25, absent an amendment removing the insurer's name from the appendices.

[1] A.M. Best Company is a well-recognized source of insurance company ratings and information. 49 U.S.C. 33112(i) authorizes NHTSA to consult with public and private organizations as necessary.

[2] Automotive Fleet Magazine and Auto Rental News are publications that provide information on the size of fleets and market share of rental and leasing companies.

II. Notice of Proposed Rulemaking

1. Insurers of Passenger Motor Vehicles

On April 3, 2006, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in Appendices A, B, and, C required to file reports (71 FR 16541). Appendix A lists insurers that must report because each had 1 percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a final rule published on July 25, 2005 (70 FR 42505). Based on the 2003 calendar year market share data from A.M. Best, NHTSA proposed to remove California State Auto Association from Appendix A.

Each of the 18 insurers listed in Appendix A are required to file a report before October 25, 2006, setting forth the information required by Part 544 for each State in which it did business in the 2003 calendar year. As long as these 18 insurers remain listed, they are required to submit a report by each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Appendix B lists insurers required to report for particular States for calendar year 2003, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 2003 calendar year data for market shares from A.M. Best, we proposed to remove Nodak Mutual Group (North Dakota) and add Safety Group (Massachusetts) to Appendix B.

The nine insurers listed in Appendix B are required to report on their calendar year 2003 activities in every State where they had a 10 percent or greater market share. These reports must be filed by October 25, 2006, and set forth the information required by part 544. As long as these nine insurers remain listed, they would be required to submit reports on or before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

2. Rental and Leasing Companies

Appendix C lists rental and leasing companies required to file reports. Based on information in *Automotive Fleet Magazine and Auto Rental News* for 2003, NHTSA proposed to remove Avis Rent-A-Car, Budget Rent-A-Car Corporation, Dollar Rent-A-Car Systems, Inc. and ANC Rental Corporation and add the Cendant Car Rental Group,[3] Dollar Thrifty Automotive Group[4] and Vanguard Car Rental USA.[5] Each of the 13 companies (including franchisees and licensees) listed in Appendix C are required to file reports for calendar year 2003 no later than October 25, 2006, and set forth the information required by part 544. As long as those 13 companies remain listed, they would be required to submit reports before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Public Comments on Final Determination

Insurers of Passenger Motor Vehicles

In response to the NPRM, the agency received one formal comment. In a letter dated April 27, 2006, Automotive Resources International/Automotive Rentals, Inc. (ARI), requested the agency to remove its name from the list of insurers required to meet the insurer reporting requirements. ARI informed the agency that it is not an insurer and does not allow self-insurance. ARI explained that it is a national long-term corporate fleet lessor/fleet management company, not affiliated in any way with an insurance company or carrier, and that its lessees are responsible for all insurance coverages on their leased vehicles. ARI further explained that while it is named as an additional insured/interest on its lessee's insurance policies, it does not keep records of these policies or become involved in theft claims because they are handled through the lessee's insurance company. Subsequent to the comment closing period, the agency was informed by five additional companies, the Donlen Corporation, GE Capital Fleet Services/GE Fleet Services, Lease Plan USA, Inc., PHH Vehicle Management Services/PHH Arval, and Wheels, Inc. that when they offer vehicles for lease, they also include as a condition of the lease agreement that the lessor provide its own motor vehicle insurance. Specifically, four of the five companies (Donlen Corporation, GE Capital Fleet Services/GE Fleet Services, Lease Plan USA, Inc., and Wheels, Inc.,) reported that they do not self-insure any of their vehicles. At NHTSA's request these companies submitted copies of their lease agreements showing that insurance was required as a condition of the lease. One company, PHH Vehicle Management Services/PHH Arval, reported that it does allow self-insurance but self-insures fewer than 50,000 vehicles in its fleet.

Section 33112(b)(1) of Title 49 of the United States Code (U.S.C.) defines an insurer to include ''a person (except a governmental authority) having a fleet of at least 20 motor vehicles that are used primarily for rental or lease and that are not covered by a theft insurance policy issued by an insurer of passenger motor vehicles''.[6]

Since all of these companies either require its lessees to provide the insurance for its vehicles, or do not self-insure 50,000 or more vehicles in its leasing fleet, none of them meet the criteria the agency uses to determine that an insurer should be included in Appendix C. Therefore, the agency determines that each of these six companies should be removed from Appendix C in the final rule.

The agency received no comments in response to the NPRM for Appendices A and B. Accordingly, this final rule adopts the proposed changes to Appendix A and B.

After reviewing the public comments and making the appropriate adjustment to Appendix C, NHTSA has determined that each of the 18 insurers listed in Appendix A, each of the nine insurers listed in Appendix B and each of 7 companies listed in Appendix C are required to submit an insurer report on its experience for calendar year 2003 as required by 49 CFR part 544.

Submission of Theft Loss Report

Passenger motor vehicle insurers listed in the appendices can forward their theft loss reports to the agency in several ways:

a. *Mail:* Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Standards, NHTSA, NVS–131, 400 Seventh Street, SW., Washington, DC 20590;

b. *E-Mail: rosalind.proctor@dot.gov;* or

c. *Fax:* (202) 493–2290.

Theft loss reports may also be submitted to the docket electronically by:

d. Logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ''ES Submit'' or ''Help'' to obtain instructions for filing the document electronically.

Regulatory Impacts

1. Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866, Regulatory Planning and Review. NHTSA has considered the impact of this final rule and determined that the action is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and

[3] Cendant Car Rental acquired ownership of Avis and Budget Rent-a-Car in 2002.

[4] Dollar Thrifty Automotive Group acquired ownership of Dollar Rent-a-Car Systems, Inc. and Thrifty, Inc., in 2001.

[5] Vanguard Car Rental USA acquired ownership of ANC Rental Corporation in 2003.

[6] As previously noted, NHTSA has by regulation increased the exemption to 50,000 vehicles.

procedures. This final rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those companies that are not statutorily eligible for an exemption are required to file reports.

NHTSA does not believe that this rule, reflecting current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing part 544 (52 FR 59; January 2, 1987). Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the Bureau of Labor Statistics Consumer Price Index for 2005 (*see http://www.bls.gov/cpi*), the cost estimates in the 1987 final regulatory evaluation were adjusted for inflation. The agency estimates that the cost of compliance is $97,650 for any insurer added to Appendix A, $39,060 for any insurer added to Appendix B, and $11,269 for any insurer added to Appendix C. In this final rule, the agency made no additional changes to Appendices A and B, and includes six fewer companies in Appendix C, as compared to the last list of insurers published in the April 3, 2006 NPRM. The agency estimates that the net effect of this final rule would be a cost savings of approximately $67,614 to insurers as a group.

Interested persons may wish to examine the 1987 final regulatory evaluation. Copies of that evaluation were placed in Docket No. T86–01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling (202) 366–4949.

2. Paperwork Reduction Act

The information collection requirements in this final rule were submitted and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This collection of information is assigned OMB Control Number 2127–0547 (''Insurer Reporting Requirements'') and approved for use through August 31, 2009, and the agency will seek to extend the approval afterwards.

3. Regulatory Flexibility Act

The agency also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for the certification is that none of the companies listed on Appendices A, B, or C are construed to be a small entity within the definition of the RFA. ''Small insurer'' is defined, in part under 49 U.S.C. 33112, as any insurer whose premiums for all forms of motor vehicle insurance account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State, account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice exempts all insurers meeting those criteria. Any insurer too large to meet those criteria is not a small entity. In addition, in this rulemaking, the agency exempts all ''self insured rental and leasing companies'' that have fleets of fewer than 50,000 vehicles. Any self-insured rental and leasing company too large to meet that criterion is not a small entity.

4. Federalism

This action has been analyzed according to the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

5. Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this final rule and determined that it would not have a significant impact on the quality of the human environment.

6. Civil Justice Reform

This final rule does not have any retroactive effect, and it does not preempt any State law, 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909, and section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

7. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading, at the beginning, of this document to find this action in the Unified Agenda.

8. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the proposal clearly stated?
- Does the proposal contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the proposal easier to understand?

If you have any responses to these questions, you can forward them to me several ways:

a. *Mail:* Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590;

b. *E-mail: rosalind.proctor@dot.gov;* or

c. *Fax:* (202) 493–2290.

List of Subjects in 49 CFR Part 544

Crime insurance, Insurance, Insurance companies, Motor vehicles, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR part 544 is amended as follows:

PART 544—[AMENDED]

■ 1. The authority citation for part 544 continues to read as follows:

Authority: 49 U.S.C. 33112; delegation of authority at 49 CFR 1.50.

■ 2. In § 544.5, paragraph (a), the second sentence is revised to read as follows:

§ 544.5 General requirements for reports.

(a) * * * This report shall contain the information required by § 544.6 of this part for the calendar year 3 years previous to the year in which the report is filed (*e.g.*, the report due by October 25, 2006 will contain the required information for the 2003 calendar year).

* * * * *

■ 3. Appendix A to part 544 is revised to read as follows:

Appendix A—Insurers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Allstate Insurance Group
American Family Insurance Group

American International Group
Auto-Owners Insurance Group
CNA Insurance Companies
Erie Insurance Group
Berkshire Hathaway/GEICO Corporation Group
Hartford Insurance Group
Liberty Mutual Insurance Companies
Metropolitan Life Auto & Home Group
Mercury General Group
Nationwide Group
Progressive Group
Safeco Insurance Companies
State Farm Group
Travelers PC Group
USAA Group
Farmers Insurance Group

■ 4. Appendix B to part 544 is revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Arbella Mutual Insurance (Massachusetts)
Auto Club (Michigan)
Commerce Group, Inc. (Massachusetts)
Kentucky Farm Bureau Group (Kentucky)
New Jersey Manufacturers Group (New Jersey)
Safety Group (Massachusetts) [1]
Southern Farm Bureau Group (Arkansas, Mississippi)
Tennessee Farmers Companies (Tennessee)

■ 5. Appendix C to part 544 is revised to read as follows:

[1] Indicates a newly listed company, which must file a report beginning with the report due October 25, 2006.

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

Cendant Car Rental
Dollar Thrifty Automotive Group
Enterprise Rent-A-Car
Enterprise Fleet Services
Hertz Rent-A-Car Division (subsidiary of The Hertz Corporation)
U-Haul International, Inc. (Subsidiary of AMERCO)
Vanguard Car Rental USA

Issued on: August 29, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–14633 Filed 9–1–06; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 71, No. 171
Tuesday, September 5, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 100

[Notice 2006–15]

Exception for Certain ''Grassroots Lobbying'' Communications From the Definition of ''Electioneering Communication''

AGENCY: Federal Election Commission.

ACTION: Notice of disposition of Petition for Rulemaking.

SUMMARY: The Commission announces its disposition of a Petition for Rulemaking (''Petition'') filed on February 16, 2006, by the AFL–CIO, the Alliance for Justice, the Chamber of Commerce of the United States, the National Education Association, and OMB Watch. The Petition asks the Commission to revise its regulations by exempting from the definition of ''electioneering communication'' certain communications consisting of ''grassroots lobbying.'' The Commission has decided not to initiate a rulemaking in response to the Petition at this time. The Petition is available for inspection in the Commission's Public Records Office and on its Web site, *http://www.fec.gov/*. Further information is provided in the **SUPPLEMENTARY INFORMATION** that follows.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Rothstein, Acting Assistant General Counsel, or Mr. Ron B. Katwan, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLMENTARY INFORMATION: The Bipartisan Campaign Reform Act of 2002 (''BCRA''), Public Law 107–55, 116 Stat. 81 (2002), added provisions regarding ''electioneering communications'' to the Federal Election Campaign Act of 1971, as amended. *See* 2 U.S.C. 434(f)(3). Electioneering communications are television and radio communications that refer to a clearly identified candidate for Federal office, are publicly distributed within 60 days before a general election or 30 days before a primary election, and are targeted to the relevant electorate. *See* 2 U.S.C. 434(f)(3)(A)(i); 11 CFR 100.29(a). BCRA exempts certain communications from the definition of ''electioneering communication,'' 2 U.S.C. 434(f)(3)(B)(i) through (iii), and specifically authorizes the Commission to promulgate regulations exempting other communications as long as the exempted communications do not promote, support, attack or oppose (''PASO'') a Federal candidate, 2 U.S.C. 434(f)(3)(B)(iv), *citing* 2 U.S.C. 431(20)(A)(iii). Section 100.29(c) of the Commission's regulations contains the regulatory exemptions to the definition of ''electioneering communication.''

On February 16, 2006, the Commission received a Petition for Rulemaking (''Petition'') from the AFL–CIO, the Alliance for Justice, the Chamber of Commerce of the United States, the National Education Association, and OMB Watch (collectively, ''Petitioners''). The Petitioners asked the Commission to revise 11 CFR 100.29(c) to exempt from the definition of ''electioneering communication'' certain ''grassroots lobbying'' communications that reflect all of the following six principles: (1) ''The 'clearly identified federal candidate' is an incumbent public officeholder;'' (2) ''The communication exclusively discusses a particular current legislative or executive branch matter;'' (3) ''The communication either (a) calls upon the candidate to take a particular position or action with respect to the matter in his or her incumbent capacity, or (b) calls upon the general public to contact the candidate and urge the candidate to do so;'' (4) ''If the communication discusses the candidate's position or record on the matter, it does so only by quoting the candidate's own public statements or reciting the candidate's official action, such as a vote, on the matter;'' (5) ''The communication does not refer to an election, the candidate's candidacy, or a political party;'' and (6) ''The communication does not refer to the candidate's character, qualifications or fitness for office.''

On March 16, 2006, the Commission published a Notice of Availability (''NOA'') seeking comment on whether to initiate a rulemaking on this proposed exception to the definition of ''electioneering communication.'' *Notice of Availability on Rulemaking Petition: Exception for Certain ''Grassroots Lobbying'' Communications From the Definition of ''Electioneering Communication,''* 71 FR 13557 (Mar. 16, 2006). The Commission received nine timely comments and two late comments in response to the NOA. In addition to these comments, the Commission received 180 form letter comments. Most of the commenters supported the Petition primarily on the grounds that the current electioneering communication rules limit the ability of organizations to run ads whose purpose is not to influence Federal elections, but to support or defeat legislation at the most critical time (*i.e.*, when the legislation is before Congress, regardless of the election cycle). These commenters argued that such ''grassroots lobbying'' ads are entitled to First Amendment protection and should therefore be exempt from the electioneering communication rules. However, one group of commenters opposed the Petition, arguing that the Commission had already considered this question in the 2002 rulemaking that adopted the current electioneering communication rules and had concluded correctly that it lacked statutory authority to promulgate a ''grassroots lobbying'' exemption.[1] These commenters further asserted that ''there are no changed circumstances that warrant reconsideration of that decision.'' Copies of the comments are available on the Commission's Web site at *http://www.fec.gov/law/law_rulemakings.shtml#lobbying.*

On August 29, 2006, the Commission voted to decline to initiate a rulemaking at this time on the proposed exception for certain ''grassroots lobbying'' communications from the definition of ''electioneering communication,'' given the Commission's other administrative priorities. The Commission recognized, however, that it has the statutory authority to create exemptions to the electioneering communication rules (provided the exemptions do not permit PASO communications) and that it may

[1] The Commission considered several proposals for ''grassroots lobbying'' exemptions in the 2002 rulemaking but did not adopt any of them. *See Notice of Proposed Rulemaking on Electioneering Communications*, 67 FR 51131, 51136, 51145 (Aug. 7, 2002); *Final Rules on Electioneering Communications*, 67 FR 65190, 65201 (Oct. 23, 2002).

consider initiating a rulemaking on this subject in the future.

Initiating a rulemaking at this time would not be an efficient or effective use of the Commission's resources. *See* 11 CFR 200.5(e). The Commission is currently defending the constitutionality of BCRA's electioneering communication provisions against two as-applied challenges to the statute involving communications that the plaintiffs claim are ''grassroots lobbying'' communications. *See Wisconsin Right to Life* v. *FEC,* Civ. No. 04–1260 (D.D.C.); *Christian Civic League of Maine* v. *FEC,* Civ. No. 06–614 (D.D.C.). Even if the Commission were to grant the Petitioners' request to begin a rulemaking to create a ''grassroots lobbying'' exemption, the plaintiffs in these cases may well continue to pursue litigation or to initiate new litigation, particularly if the Commission were to craft an exemption narrower than that contemplated by the plaintiffs. Moreover, any eventual court decisions in these lawsuits may provide the Commission with guidance on whether and how the Commission should exercise its discretion in this area. Judicial guidance may well necessitate a reevaluation of any rules the Commission were to propose now. Therefore, in light of the pending as-applied challenges to the constitutionality of the electioneering communication provisions, the Commission believes that initiating a rulemaking at this time would not be an effective use of its resources or an appropriate way to proceed.

Dated: August 29, 2006.

Michael E. Toner,

Chairman, Federal Election Commission.

[FR Doc. E6–14638 Filed 9–1–06; 8:45 am]

BILLING CODE 6715–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AF49

Business Loan Program; Lender Examination and Review Fees

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements a recent amendment to the Small Business Act authorizing the Small Business Administration (SBA) to assess fees to lenders participating in SBA's 7(a) loan guarantee program (Lenders) to cover the costs of examinations, reviews, and other Lender oversight activities. The proposed rule describes the methodology for fee assessment. Under the proposed rule, Lenders would pay the actual costs to SBA of the on-site examinations and reviews, and would be allocated off-site review/monitoring costs based on each Lender's proportionate share of loan dollars that SBA has guaranteed in the SBA portfolio. The proposed rule also describes the billing and payment processes.

DATES: Comments must be received on or before October 5, 2006.

ADDRESSES: You may submit comments, identified by [RIN number 3245–AF49], by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Agency Web Site: *proprule@sba.gov.* Follow the instructions for submitting comments.
- E-mail: *lender.oversight@sba.gov.*
- Fax: (202) 205–6831.
- Mail: Bryan Hooper, Associate Administrator for Lender Oversight, Small Business Administration, 409 3rd Street, SW., 8th floor, Washington, DC 20416.
- Hand Delivery/Courier: 409 3rd Street, SW., 8th floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: John White, Deputy Associate Administrator for Lender Oversight, (202) 205–6345, *john.white@sba.gov;* or Paul Bishop, Financial Analyst, Office of Lender Oversight, (202) 205–7516, *paul.bishop@sba.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 7(a) of the Small Business Act, 15 U.S.C. 636(a), authorizes SBA to guarantee loans made by Lenders to eligible small businesses. Currently, there are over 5,000 Lenders authorized to make such SBA guaranteed loans. SBA conducts off-site reviews/monitoring and on-site exams/reviews of these Lenders to ensure they are processing loans in accordance with prescribed standards, and to minimize losses. Section 5(b)(14) of the Small Business Act (15 U.S.C. 634(b)(14)), authorizes SBA to require these Lenders to pay fees to cover ''the costs of [the] examinations, reviews, and other Lender oversight activities.'' Congress granted SBA this new fee authority under section 131 of Division K of Public Law 108–447, enacted December 8, 2004.

Examination and review costs primarily consist of contractor charges for assistance with (i) on-site examinations; (ii) on-site reviews; and (iii) off-site reviews/monitoring activities. SBA's contractors for on-site exams and reviews bill SBA separately for each examination/review as it is conducted. The contractor supporting off-site reviews/monitoring generally bills SBA on a quarterly basis to cover its contract price.

A discussion of the proposal and a section-by-section analysis follows.

II. Proposal

A. Review and Examination

SBA conducts the following examinations and reviews of Lenders: (i) Off-site reviews/monitoring; (ii) on-site examinations; and (iii) on-site reviews. Under the proposed rule, the fee that SBA would charge a Lender would generally depend on the reviews/examinations that SBA conducts for that Lender.

B. All Lenders

All Lenders receive a quarterly off-site review. The off-site review is conducted using SBA's Loan and Lender Monitoring System (L/LMS). This L/LMS review is the primary method of monitoring all of SBA's approximately 5,200 Lenders. For lower volume Lenders, it also may be SBA's sole method of reviewing them. L/LMS is also used in conjunction with SBA's on-site exams/reviews, for purposes of planning and prioritization of exams/reviews. Under the proposed rule, SBA's cost of off-site review/monitoring (primarily the L/LMS contract cost) would be recovered through fees charged to all Lenders. The cost would be allocated according to each Lender's respective outstanding SBA guarantees (guaranteed dollars) relative to the total guaranteed dollars SBA has outstanding in its 7(a) loan portfolio. Both Lenders' outstanding SBA guarantees and the total guaranteed SBA dollars would be calculated using September 30 portfolio figures. Guaranteed dollars outstanding includes guarantees of both loans held by the Lender and loans sold into the secondary market, securitized, or for which a Lender has sold a participation interest. It also includes loans that have been purchased by SBA but have not yet been charged off.

The annual cost of the L/LMS reviews under SBA's current contract is about $82 per $1 million in outstanding guarantees. SBA proposes to use this ratio in calculating the Lender's fee for off-site monitoring/reviews. Should SBA's costs under the contract change, the ratio would change accordingly. SBA does not plan at this time to

recover its own costs related to the conduct of the off-site review, including the salary and expenses of SBA employees involved in the review.

Under the current formula, approximately 3,400 Lenders that have less than $1 million in outstanding SBA loan guarantees would incur an average annual fee of less than $25. The approximately 1,100 Lenders with between $1 million and $4 million in outstanding SBA loan guarantees would incur an annual off-site review fee ranging from $82 to $327. The approximately 300 Lenders with between $4 million and $10 million in outstanding SBA loan guarantees would pay an estimated annual off-site review fee ranging from $330 to $816. Finally, the remaining 380 Lenders with outstanding SBA loan guarantees of greater than $10 million would pay a median of $1,848 per year for off-site reviews/monitoring. Each Lender's fee assessment will include a description of how the fee was calculated. This off-site review cost could, over time, serve to maintain on-site examination/review costs at a minimum by allowing SBA to focus its on-site reviews and examinations on those Lenders whose portfolios or operational performance present SBA with the most risk. SBA may waive or provide an exemption for the fees due from very small volume Lenders when the administrative costs of collecting the fee from a Lender are greater than the amount of the fee itself (i.e. when it is not cost effective to collect such fees). SBA is in the process of determining at which dollar amount it would not be cost effective for SBA to bill and collect. SBA is also in the process of estimating the total amount of fees in case SBA determines to implement the waiver/exemption. SBA is considering other methodologies for determining the appropriate basis for waiver/exemption. Should SBA decide to grant fee waivers/exemptions, such action will not affect the fee charged to other Lenders, and any shortfall will be made up with SBA's available appropriations.

C. SBA Supervised Lenders

In addition to quarterly off-site reviews, SBA also performs on-site safety and soundness examinations of SBA's Small Business Lending Companies (''SBLCs'') and large Non-Federally Regulated Lenders (''NFRLs'') (together ''SBA Supervised Lenders''). Each SBLC is usually examined on a 12 to 24 month cycle. NFRLs may also be examined on a 12 to 24 month cycle, depending upon such factors as size, level of SBA lending activity, and results of previous examinations. Under the proposed rule, each SBA Supervised Lender's fees would, generally, include: (i) The annual L/LMS charge and (ii) the on-site examination cost (if an exam was performed that fiscal year). The examination fee component would be based primarily on actual hourly charges of, and travel expenses incurred by, the contractor (currently a Federal financial institution regulator).

The safety and soundness examination that these Lenders receive is similar in scope to safety and soundness examinations conducted by other Federal regulators. However, the cost of an SBA examination is reasonable in relation to the assessments for examinations by other Federal regulators. For example, the Comptroller of the Currency's current annual assessment on a bank with $1 billion in assets is $219,580, and the Office of Thrift Supervision assesses the same size institution $204,096; whereas the annual cost for an SBA-Supervised Lender on a 24 month exam cycle with $1 billion in outstanding loan balances (with 71% of that portfolio guaranteed by SBA) would average $139,220. This amount is calculated as follows: The biennial safety and soundness examination for a Lender with $1 billion in assets under the current contract typically costs $162,000, for an average annual cost of $81,000. In addition, the L/LMS fee for the same sized SBLC would be $58,220, for a total annual cost to the Lender of $139,220.

D. Non-SBA Supervised Lenders

In addition to quarterly off-site reviews/monitoring, SBA plans to conduct, on a 12 to 24 month review cycle, on-site reviews of the 7(a) operations of Lenders with $10 million or more in outstanding SBA loan guarantees. On-site reviews will not be conducted for the SBLCs and NFRLs that receive on-site examinations. On-site reviews are performed with the assistance of a financial services firm under contract with SBA. Under the proposed rule, fees for the Lenders in this category would generally include: (i) The annual L/LMS charge and (ii) the on-site review fee (if a review was performed that fiscal year). On-site review costs of a Lender's 7(a) operations currently range from $20,000 to $24,000. Factors that may affect where a Lender falls in the estimated range include, but are not limited to, the complexity of a Lender's 7(a) operations, rating trends, guaranteed dollars outstanding, and results of previous examinations. The timing of on-site reviews may also depend upon SBA's ability to coordinate reviews of Lenders that will minimize travel expenses and achieve economies of scale, thus reducing Lenders' review fees.

In addition to Lenders with $10 million or more in SBA in 7(a) loan guarantees, SBA may perform on-site reviews of Lenders with loan guarantees of as little as $4 million in situations where SBA's off-site monitoring indicate such a Lender is a very high risk to SBA.

E. SBA's Other Lender Oversight Expenses

Under the proposed rule, SBA has the authority to recover its other expenses in carrying out Lender oversight activities (for example, the salaries and travel expenses of SBA employees and equipment expenses that are related to carrying out Lender oversight activities). However, SBA does not plan at this time to charge Lenders for these costs. Should SBA decide to assess a fee for these expenses in the future, each Lender's fee would be calculated by multiplying the total annual cost of SBA's oversight operational expenses by the Lender's dollar share of the total outstanding SBA guarantees. SBA will notify Lenders if it proposes to recover expenses resulting from its other Lender oversight activities.

F. Assessment Methodology

SBA's proposed assessment formula is based primarily on allocating the actual cost of a particular Lender's examination and review to that Lender. This is feasible because SBA's on-site examination and review costs, unlike those of most of the other financial institution regulators, primarily consist of contractor assistance billed on a Lender-specific basis.

For those costs that are not incurred on a Lender-by-Lender basis (for example, off-site monitoring/reviews), SBA proposes a risk-based formula based on a Lender's outstanding guaranteed dollars relative to that of SBA's outstanding guaranteed portfolio, as of September 30. The guaranteed dollar methodology ties a Lender's charge to that of SBA's risk of dollar loss. SBA considered allocating these costs based on the number of loans that a Lender has outstanding. The loan number-based methodology, however, fails to consider varying guarantee percentages in SBA's loan programs (for example SBA Express at 50% versus regular 7(a) lending at 75% or more) and diversity of loan sizes. It also fails to consider that SBA's dollar loss is directly related to the size of the loans rather than the number of loans; the loss from a large loan will greatly exceed the loss from a small loan. It, therefore,

would result in a less equitable distribution of the costs. Finally, the loan-based methodology may be contrary to SBA's goal to assist as many of America's small businesses as are eligible for agency assistance.

SBA also considered the fee assessment methodologies of the various federal financial institution regulators. The federal financial institution regulators' methodologies are generally complex. There are approximately three common factors incorporated into the allocation formulas. The factors are: (i) An institution's assets; (ii) an institution's exam rating; and (iii) economies of scale. These factors were considered and incorporated into SBA's proposed fee assessment methodology to determine the proposed on-site review charge.

The off-site monitoring/review cost allocation formula is also based on outstanding guaranteed dollars of the institution's SBA loan assets. Exam rating trends are indirectly incorporated into the methodology to the extent that better ratings could translate to less frequent on-site examinations and reviews. Overall, SBA's proposed cost allocation methodology would result in fees that are reasonable relative to federal financial institution regulator assessments. It provides for equitable distribution of SBA costs. Finally, it is consistent with legislative guidance to tie fees to the ''size of the lender's portfolio being reviewed, and the time necessary to review the portfolios.'' Sen. Rept. 108–124 pg. 12 (Aug. 26, 2003).

III. Section-by-Section Analysis

Section 120.454—PLP Performance Review. To eliminate redundancy, SBA proposes to strike the second sentence of this provision, which authorizes SBA to charge a PLP Lender fee to cover the costs of the PLP performance review.

Subpart I—Lender Oversight. SBA would add a new subpart for lender oversight, which would initially consist of proposed section 120.1070 governing lender oversight fees.

Section 120.1070—Lender Oversight Fees. SBA proposes to add this new section to part 120 of Title 13 CFR to implement the fee authority granted to SBA.

Section 120.1070(a)—Fee Components. This provision sets forth the components that may be included in the total fee, including charges to cover the costs of: (1) On-site safety and soundness examinations conducted for SBLCs and NFRLs; (2) on-site reviews conducted for other Lenders; (3) off-site reviews/monitoring conducted for all Lenders; and (4) SBA's other Lender oversight expenses, as assessed. The fee would be based on SBA's costs. The amount of each Lender's fee for the on-site examination or review would include the actual expenses incurred for that Lender's on-site review or examination. In the case of off-site reviews/monitoring, SBA would allocate the charge based on the Lender's share of SBA guaranteed dollars outstanding. Finally, if SBA later decides to include charges for other lender oversight activities, those costs would be allocated similar to the formula for allocating off-site review/monitoring costs.

Section 120.1070(b)—Billing Process. This provision describes the process for billing the Lenders for the fees. For the on-site examinations and reviews, SBA would bill the Lender following completion of the review. SBA would bill the Lender for the charges for the off-site reviews and SBA's other Lender oversight expenses (the latter if assessed) on an annual basis. The bill will include the approved payment method(s). The payment due date will be no less than 30 calendar days from the bill date.

Section 120.1070(c)—Delinquent Payment and Late-Payment Charges. This provision provides that any payment that is not received by the due date specified in the bill would be considered delinquent. It also provides that SBA may charge interest, penalties and other charges on delinquent payments, as provided by applicable law, and that SBA may waive the interest charge if circumstances warrant.

IV. Comments

The form and content of the proposal should not be viewed as exhaustive. SBA seeks comments on all aspects of the proposal and suggestions as to any modifications. For example, SBA would be interested in comments concerning the methodology used to distribute costs to Lenders. However, SBA will rely on its own expertise in making final determinations for the final rule.

V. Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C., Ch. 35)

Executive Order 12866

The Office of Management and Budget has determined that this rule constitutes a significant regulatory action under Executive Order 12866 thus requiring a Regulatory Impact Analysis, as set forth below.

A. Regulatory Objective

As the SBA moves to more streamlined lending processes and delegates more authority to its Lenders, the need for better and more comprehensive Lender oversight is essential. With the integration of L/LMS, the SBA has an early warning system that allows SBA to monitor its Lenders on a regular basis. Off-site reviews/monitoring and on-site examinations or reviews allow SBA to determine which Lenders pose the most risk to the SBA from both an exposure and credit risk perspective. By identifying Lenders with unacceptable levels of risk, the SBA can work with the Lenders to limit the risk.

This proposed rule implements a recent amendment to the Small Business Act authorizing SBA to require 7(a) Lenders to pay fees to cover the costs of examinations or reviews and other Lender oversight activities. SBA believes that the methodology for charging fees to Lenders, which is based on direct costs of individual Lender examination or review expenses and the allocation of off-site review expenses by each Lender's share of the guaranteed dollars in the entire outstanding SBA portfolio, is equitable and reasonable.

B. Baseline Costs

SBA currently performs examinations and reviews for all 7(a) lenders. This proposal does not modify the current examination and review scope. Rather, it implements the recent amendment to the Small Business Act authorizing SBA to assess lenders fees to cover the costs of those examinations or reviews. Examination and review costs primarily consist of contractor charges for assistance with (i) on-site examinations; (ii) on-site reviews; and (iii) off-site reviews/monitoring activities. SBA's contractors for on-site exams and reviews bill SBA separately for each examination/review as it is conducted. The total annual cost of contractor on-site examinations and reviews is $4,915,000. The contractor for off-site reviews/monitoring generally bills SBA one flat fee for the year to cover the reviews/monitoring of all Lenders. The total annual cost for off-site reviews/monitoring is approximately $2,604,000; the apportionment of these costs at the Lender level have been discussed above in the ''Supplemental Information, Section II Proposal.''

C. Potential Benefits and Costs

The costs to Lenders associated with SBA's on-site and off-site reviews and monitoring are described elsewhere in this notice. The benefit for Lenders is that it allocates direct costs of on-site examinations or reviews to those Lenders for whom those costs are incurred.

Indirect costs of off-site monitoring will be allocated according to each Lender's participation level as measured by SBA guaranteed dollars, so that the costs will be proportionate to the benefits Lenders derive from participating in the 7(a) program. In addition, Lenders with the highest amount of SBA guaranteed dollars represent the most risk to SBA and require the greatest level of off-site monitoring; therefore, apportioning the monitoring costs in relation to the amount of SBA guaranteed dollars is more equitable to smaller or new Lenders that represent proportionately less risk to SBA. The 92% of 7(a) Lenders with under $10 million in outstanding SBA guarantees benefit by the off-site review process. Most of these Lenders will be subject to off-site reviews instead of on-site reviews, which will eliminate space and staff costs associated with SBA's on-site review process. Payment of fees proposed in this rule will allow SBA to maintain the off-site review process for less active lenders while allocating the higher cost of on-site reviews and examinations to those active lenders that represent the most risk to SBA and for whom the expense is directly incurred. The SBA and lenders will incur additional administrative costs related to the billing, collection, and payment of the fees. These administrative costs are limited to accounting input for SBA's bill and receipt system and writing a check by the lender. They are deemed to be minimal.

Besides allocating its review and monitoring costs to its Lenders, SBA will benefit through the relative ease of administering the assessment process. SBA's additional costs would only consist of new expenses incurred in collecting the fees. SBA anticipates that these new expenses would be minimal.

D. Alternatives (Cost/Benefits Estimated)

An alternative off-site review/monitoring cost allocation plan was considered, based on the number of loans outstanding for each respective Lender. A significant portion of the cost of analytics used in the L/LMS is that of obtaining credit scores on borrowers with outstanding SBA guaranteed loans to assess the credit risk of the Lender's 7(a) loan portfolio. The benefit of this scheme is that it charges each Lender based on the credit scores obtained for their SBA portfolio. We have determined that this methodology is contrary to the SBA's mission and would not be well related to risk. Our mission is to provide capital access to as many small business concerns as possible within the authorized funding level. Lending partners that reach out to very small businesses and startup businesses should not be charged the same off-site monitoring fee for their small loan as another Lender with a very large loan. The loan number based methodology also fails to consider varying guarantee percentages in SBA's loan programs (for example SBA Express at 50% versus regular 7(a) lending at 75%). Risk considered is the dollar risk of defaulted guaranteed balances. Therefore, a scheme that assesses fees directly proportionate to the guaranteed balances is the most equitable.

Executive Order 12988

This proposed action meets applicable standards set forth in §§ 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. This rule would not have retroactive or pre-emptive effect.

Executive Order 13132

This proposed rule would not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purposes of Executive Order 13132, SBA has determined that this proposed rule has no federalism implications warranting preparation of a federalism assessment.

Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RF), 5 U.S.C. 601–612, requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' which will ''describe the impact of the proposed rule on small entities.'' 5 U.S.C. 603(a). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Although this rulemaking may affect a substantial number of small entities, for the reasons stated below, SBA does not believe that this proposal will have a significant economic impact on a substantial number of small entities.

This proposed rule implements Small Business Act 5(b)(14), which authorizes SBA to require 7(a) Lenders to pay examination and review fees. These fees are to be available to fund the costs of examinations, reviews, and other Lender oversight activities.

The proposed would apply to all 7(a) lenders with outstanding SBA guaranteed loan balances. Approximately 5,200 lenders are currently participating in the 7(a) program, of which 11 are active SBLC Lenders. SBA has determined that SBLCs are classified under the size standard for NAICS 522298. Three of the 11 active SBLCs are below the $6.5 million in average annual receipts and are deemed small business concerns. Nearly all of the remaining 7(a) Lenders are covered under NAICS 522110 for commercial banks and other depository financial institutions. About 3,000 of the Lenders in this classification have less than $165 million in assets and are deemed small business concerns.

The proposed rule would not have a significant economic impact on a substantial number of the 3,000 Lenders covered under NAICS 522110. Most of these Lenders have very small SBA portfolios and would only be subject to fees for the off-site reviews/monitoring. The annual fee for 98% percent of these lenders would be less than $945, the cost of a one year subscription to the ''American Banker'' magazine. The estimated annual fee for 2,068 of these small Lenders would be less than $50. SBA may waive the fees when it is not cost-effective to bill and collect. SBA is in the process of determining at which dollar amount it would not be cost effective for SBA to bill and collect. That determination may be revised periodically to reflect changes in SBA's costs. Another 443 would be assessed annual fees of less than $100. For 469 Lenders, the annual fee would be between $100 and $1,000. The largest of the approximately 51 remaining Lenders classified as small business concerns has over $100 million in outstanding SBA guarantees. The estimated annualized fee for this Lender, which would cover the cost of the bi-annual on-site review plus annual off-site monitoring cost, would be $21,440. The estimated annualized fee of the on-site exam plus the annual off-site monitoring cost fee for the three SBLCs classified as small business concerns would range from $26,034 to $40,302.

Moreover, since SBA would calculate and bill for the fee, there would be virtually no recordkeeping or other compliance requirements of the rule. There are also no relevant Federal rules governing fees for the 7(a) program which may duplicate, overlap or conflict with the Proposed Rule. Accordingly, the Administrator of SBA hereby certifies to the Chief Counsel of Advocacy that this proposed rule will

not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

SBA has determined that this proposed rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 120

Loan programs—business, Small businesses.

For the reasons discussed in the preamble, SBA proposes to amend 13 CFR part 120 to read as follows:

PART 120—BUSINESS LOANS

1. The authority citation for part 120 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), 634(b)(7), 634(b)(14), 633(b)(3), 636(a) and (h), 650, and 696(3) and 697(a)(2).

2. Revise § 120.454 to read as follows:

§ 120.454 PLP performance review.

SBA may review the performance of a PLP Lender.

3. Add a new Subpart I to read as follows:

Subpart I—Lender Oversight

§ 120.1070 Lender Oversight Fees.

Lenders are required to pay to SBA fees to cover costs of examinations, reviews, and other Lender oversight activities.

(a) *Fee components:* The fees may cover the following:

(1) *On-Site Examinations.* The costs of conducting on-site safety and soundness examinations of an SBA-Supervised Lender, including any expenses that are incurred in relation to the examination. For the purposes of this paragraph, the term ''SBA-Supervised Lender'' means a Small Business Lending Company or a Non-Federally Regulated Lender.

(2) *On-Site Reviews.* The costs of conducting an on-site review of a Lender, including any expenses that are incurred in relation to the review.

(3) *Off-Site Reviews/Monitoring.* The costs of conducting off-site reviews/monitoring of a Lender, including any expenses that are incurred in relation to the review/monitoring activities. SBA will assess this charge based on each Lender's portion of the total dollar amount of SBA guarantees in SBA's portfolio.

(4) *Other Lender Oversight Activities.* The costs of additional expenses that SBA incurs in carrying out Lender oversight activities (for example, the salaries and travel expenses of SBA employees and equipment expenses that are directly related to carrying out Lender oversight activities). SBA will assess this charge based on each Lender's portion of the total dollar amount of SBA guarantees in SBA's portfolio.

(b) *Billing Process.* For the on-site examinations or reviews conducted under paragraphs (a)(1) and (a)(2) of this section, SBA will bill each Lender for the amount owed following completion of the examination or review. For the off-site reviews/monitoring conducted under paragraph (a)(3) of this section and the other Lender oversight expenses incurred under paragraph (a)(4) of this section, SBA will bill each Lender for the amount owed on an annual basis. SBA will state in the bill the date by which payment is due SBA and the approved payment method(s). The payment due date will be no less than 30 calendar days from the bill date.

(c) *Delinquent Payment and Late-Payment Charges.* Payments that are not received by the due date specified in the bill shall be considered delinquent. SBA will charge interest, and other applicable charges and penalties, on delinquent payments, as authorized by 31 U.S.C. 3717. SBA may waive or abate the collection of interest, charges and/or penalties if circumstances warrant. In addition, a Lender's failure to pay any of the fee components described in this section, or to pay interest, charges and penalties that have been charged, may result in a decision to suspend or revoke a participant's eligibility under § 120.415, or to limit a participant's delegated authority under other provisions of this part.

Dated: August 24, 2006.

Steven C. Preston,

Administrator.

[FR Doc. 06–7399 Filed 9–1–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25723; Directorate Identifier 2006–NM–007–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Model DHC–8–400 series airplanes. This proposed AD would require repetitive cleaning/inspecting of the drain hole of each pitot static probe and repetitive cleaning of the pitot lines in the pitot static system. This proposed AD results from reports of incidents of airspeed mismatch between the pilot, co-pilot, and standby airspeed indications caused by contamination in the pitot static system. We are proposing this AD to prevent erroneous/misleading altitude and airspeed information from a contaminated pitot static system to the flightcrew, which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

DATES: We must receive comments on this proposed AD by October 5, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7320; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–25723; Directorate Identifier 2006–NM–007–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic,

environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on certain Bombardier Model DHC–8–400 series airplanes. TCCA advises that it has received reports of incidents of airspeed mismatch between the pilot, co-pilot, and standby airspeed indications. The cause of these incidents is believed to be contamination in the pitot lines and/or blockage in the pitot static probes. Blockage of a probe's pitot drain may allow enough moisture to enter the tube's internal pitot line, which could freeze under certain conditions, causing a blockage of the pitot line. This condition, if not corrected, could result in erroneous/misleading altitude and airspeed information to the flightcrew, which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

Relevant Service Information

Bombardier has issued Task 20–00–40–170–801 in the Bombardier Dash 8 Q400 Aircraft Maintenance Manual (AMM), PSM 1–84–2, Part 2, Revision 21, dated December 5, 2005. This task describes procedures for cleaning the drain hole of the pitot static probes and examining the hole for blockage. Bombardier has also issued Task 34–11–00–170–801 in the Bombardier Dash 8 Q400 AMM, PSM 1–84–2, Part 2, Revision 21, dated December 5, 2005. Task 34–11–00–170–801 describes procedures for cleaning the pitot and static lines of the pitot static system. TCCA mandated the service information and issued Canadian airworthiness directive CF–2005–15, dated May 18, 2005, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Clarification of Compliance Times

The compliance time for inspecting the drain holes of the pitot static probes is before further flight following the cleaning of the drain holes. This is not made clear in paragraph A.1.b. of the Canadian airworthiness directive.

The compliance time for repeating the cleaning and inspection of blocked drain holes of the pitot static probes is before further flight. This is also not made clear in paragraph A.1.c. of the Canadian airworthiness directive.

Clarification of Certain Actions

Task 34–11–00–170–801 in the Bombardier Dash 8 Q400 AMM, PSM 1–84–2, Part 2, describes procedures for cleaning both the pitot and static lines of the pitot static system. This proposed AD would only require cleaning of the pitot lines; cleaning of the static lines is not necessary to address the unsafe condition that is the subject of this proposed AD. The Canadian airworthiness directive also requires cleaning of only the pitot lines of the pitot static system.

Interim Action

We consider this proposed AD interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this proposed AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD. There are about 181 airplanes of U.S. registry.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Fleet cost
Clean/inspect pitot drain holes	1, per clean/inspection cycle	$80	$80, per clean/inspection cycle.	$14,480, per clean/inspection cycle.
Clean pitot lines	2, per clean cycle	80	$160, per clean cycle	$28,960, per clean cycle.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for

safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have Federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA–2006–25723; Directorate Identifier 2006–NM–007–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by October 5, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 airplanes, certificated in any category; serial numbers 4001 and 4003 and subsequent.

Unsafe Condition

(d) This AD results from reports of incidents of airspeed mismatch between the pilot, co-pilot, and standby airspeed indications caused by contamination in the pitot static system. We are issuing this AD to prevent erroneous/misleading altitude and airspeed information from a contaminated pitot static system to the flightcrew, which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Initial and Repetitive Cleaning and Inspection of the Pitot Static Drain Holes

(f) Within 30 days after the effective date of this AD, do paragraphs (f)(1) and (f)(2) of this AD. Thereafter, repeat the actions in paragraphs (f)(1) and (f)(2) of this AD at intervals not to exceed 70 flight hours.

(1) Clean the drain holes of all the pitot static probes in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Paragraph 4.B., Procedure 2, subparagraphs (1) through (3) of Bombardier Task 20–00–40–170–801 in the Bombardier Dash 8 Q400 Aircraft Maintenance Manual (AMM), PSM 1–84–2, Part 2, is one approved method for accomplishing the requirements of this paragraph.

(2) Before further flight after cleaning the drain holes of the pitot static probes, as specified in paragraph (f)(1) of this AD, do a general visual inspection of the drain holes of all the pitot static probes for blockages, in accordance with a method approved by the Manager, New York ACO. Paragraph 4.A., Procedure 1, of Bombardier Task 20–00–40–170–801 in the Bombardier Dash 8 Q400 AMM, PSM 1–84–2, Part 2, is one approved method for accomplishing the requirements of this paragraph.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(g) If any blockage is found in the drain hole of any pitot static probe during the inspection required in paragraph (f)(2) of this AD, before further flight, repeat the cleaning and inspection specified in paragraphs (f)(1) and (f)(2) of this AD on the affected pitot static probe.

Cleaning of the Pitot Static Lines

(h) Within 30 days after the effective date of this AD, clean the pitot lines of the pitot static system in accordance with a method approved by the Manager, New York ACO. Bombardier Task 34–11–00–170–801 in the Bombardier Dash 8 Q400 AMM, PSM 1–84–2, Part 2, is one approved method for accomplishing the actions required by this paragraph. Thereafter, repeat the cleaning of the pitot lines at intervals not to exceed 600 flight hours.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, New York ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(j) Canadian airworthiness directive CF–2005–15, dated May 18, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on August 23, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–14628 Filed 9–1–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

28 CFR Part 20

[Docket No. FBI 111P; AG Order No. 2833–2006]

RIN 1110–AA25

Inclusion of Nonserious Offense Identification Records

AGENCY: Federal Bureau of Investigation, Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice (the Department) proposes to amend part 20 of its regulations appearing at title 28 of the Code of Federal Regulations (CFR) pertaining to criminal justice information systems and the appendix to that part. The amendment will permit the retention and exchange of criminal history record information (CHRI) and fingerprint submissions relating to nonserious offenses (NSOs) in the Federal Bureau of Investigation's

(FBI's) Fingerprint Identification Records System (FIRS) and the Interstate Identification Index (III) when provided by a criminal justice agency for retention by the FBI.

DATES: Written comments must be received on or before November 6, 2006.

ADDRESSES: All comments concerning this proposed rule should be mailed to: Assistant General Counsel Harold M. Sklar, Federal Bureau of Investigation, CJIS Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. To ensure proper handling, please reference FBI Docket No. 111P on your correspondence. You may view an electronic version of this proposed rule at *http://www.regulations.gov*. You may also comment via the Internet to the FBI at *enexreg@leo.gov* or by using the *http://www.regulations.gov* comment form for this regulation. When submitting comments electronically, you must include FBI Docket No. 111P in the subject box.

FOR FURTHER INFORMATION CONTACT: Assistant General Counsel Harold M. Sklar, telephone number (304) 625–2000.

SUPPLEMENTARY INFORMATION: The Department proposes to amend section 20.32 of part 20 of its regulations, and the Appendix thereto, defining the offenses that may serve as the basis for maintaining fingerprints and CHRI in its criminal history record information systems. The relevant FBI information systems include the FIRS, which maintains fingerprints records, and the III System, which maintains fingerprint-supported CHRI. The amendment broadens the definition of includable offenses to permit the retention of information relating to currently excluded NSOs as well as information relating to ''serious and/or significant adult or juvenile offenses.'' The revised regulation will permit the retention and exchange of fingerprints and CHRI relating to NSOs when provided by the criminal justice agency, as defined in 28 CFR 20.3(g), for retention by the FBI. Such NSO information is currently maintained only at the state and local levels. The proposed change will allow for the more uniform collection of CHRI at the Federal level. It will establish more uniform sharing of such information among the States by allowing States to make NSO information available for national criminal history record searches for both criminal justice and non-criminal justice purposes by submitting such information for retention by the FBI.

The general authority for the FBI to collect and exchange CHRI is found in 28 U.S.C. 534(a), which states in pertinent part that the Attorney General shall ''acquire, collect, classify, and preserve identification, criminal identification, crime, and other records'' and ''exchange such records and information with, and for the official use of, authorized officials of the Federal Government, including the United States Sentencing Commission, the States, cities, and penal and other institutions.''

The term ''criminal history record information'' is defined in the regulations as follows:

> * * * information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records if such information does not indicate the individual's involvement with the criminal justice system.

28 CFR 20.3(d)

In 1974, the FBI implemented a policy limiting the acquisition and retention of NSOs, primarily based upon processing capacity concerns in a manual record keeping environment, *i.e.*, before advances in technology made feasible the automated and digital storage and processing of much larger numbers of such records. *See* 39 FR 5636 (Feb. 14, 1974). At that time, the Department promulgated a rule, published at 28 CFR 20.32 (Includable offenses), which states that CHRI maintained in the III and the FIRS shall include ''serious and/or significant adult and juvenile offenses,'' but exclude arrests and court actions concerning ''nonserious offenses'' that are not accompanied by a serious or significant offense. Examples given in the regulation of NSOs include ''drunkenness, vagrancy, disturbing the peace, curfew violation, loitering, false fire alarm, non-specific charges of suspicion or investigation, and traffic violations (except data will be included on arrests for vehicular manslaughter, driving under the influence of drugs or liquor, and hit and run).'' 28 CFR 20.32(b).

In *Tarlton* v. *Saxbe*, 407 F. Supp. 1083 (D.D.C. 1976), upon reversal and remand from *Tarlton* v. *Saxbe*, 507 F.2d 1116 (D.C. Cir. 1974), the District Court for the District of Columbia interpreted this rule in a situation involving a plaintiff seeking to enjoin the dissemination of entries reflecting ''non-serious offenses'' in the FBI's system of records. The *Tarlton* court found that the language in 28 CFR 20.32(b) reflected the then-existing FBI policy, which excluded NSOs from the system [*id.* at 1087 n.15] and directed that NSOs ''are to be deleted from all FBI criminal records—upon request for dissemination for all individuals over age 35, and upon conversion to computerized files for all other individuals * * *.'' *Id.* at 1089. This decision was based on the content of the existing regulation rather than any other legal requirement. As a result of the District Court's decision, the FBI destroyed previously-retained NSOs that were unaccompanied by serious offenses.

Since the 1970s, however, several events have prompted reconsideration of the language of section 20.32(b). First, definitions of ''serious'' or ''significant'' offenses and NSOs vary significantly among the States. Therefore, numerous states have requested exceptions from the FBI's regulatory restriction on submitting NSOs so that the FBI's repository of criminal history records would more closely mirror state-maintained criminal history repositories. Revising the FBI's policy to allow for retention of NSOs in the FBI's records systems also will help create a more uniform policy for collecting CHRI. This will increase the likelihood that law enforcement agencies in one state requesting criminal history searches for a criminal justice purpose will have the same information available to law enforcement agencies in the state where the records originate.

Additionally, with the significant increase in requests for CHRI to conduct criminal background checks for noncriminal justice employment and licensing purposes, some NSOs have acquired greater significance. For example, a state school bus driver applicant in one state with a history of certain traffic offenses in another jurisdiction may be disqualified from employment based upon those traffic offenses under the law of his or her state of residence. However, if those traffic offenses from another state are NSOs and are not included in the FBI's systems of records, a check of the FBI's records would result in a response to the inquiring agency that no prior record was located. As a result, individuals with potentially disqualifying criminal records may gain employment in positions from which they would otherwise be prohibited. Therefore, permitting the FBI to retain and to exchange NSOs will assist in producing more complete and uniform background checks. At the same time, inclusion of NSOs in the FBI information systems will not affect the enforcement of state laws that require the filtering out or redaction of specified offenses, such as certain significant or

non-significant offenses, in connection with licensing or employment checks. These restrictions on record dissemination are applied by the recipient or agency that has the authority to request the CHRI from the FBI.

As originally promulgated, the rule served an administrative purpose to alleviate the workload in the 1970s when the FBI manually collected and stored fingerprint cards. By adopting the policy of not accepting fingerprint cards relating to NSOs, the FBI was then able to significantly reduce the number of fingerprint cards processed. In 1999, however, the FBI initiated the Integrated Automated Fingerprint Identification System (IAFIS), an automated system for storing and searching digitized fingerprint images. Digitized fingerprint images require far less storage space than fingerprint cards; thus, IAFIS solved the legacy system's capacity problem. Furthermore, the introduction of IAFIS has resulted in more timely identifications predicated upon latent fingerprint submissions, including latent fingerprints obtained from crime scenes. Hence, retaining NSOs will increase law enforcement's latent fingerprint search capability by increasing the universe of criminal history record fingerprint submissions retained by the FBI against which a latent fingerprint search can be made.

Based on the above considerations, we are proposing to amend 28 CFR 20.32 to remove the existing distinction between ''serious and/or significant'' offenses and NSOs and to state more generally that ''[t]he III System and the FIRS shall maintain all fingerprints and CHRI relating to adult and juvenile offenses submitted by criminal justice agencies for retention, consistent with the FBI's capacity to collect and exchange such information.''

The NSOs will be acquired, collected, classified and preserved with all other CHRI. The procedures by which an individual may obtain a copy of his or her identification record from the FBI to review and to request any change, correction, or update are set forth in 28 CFR 20.34 and §§ 16.30–16.34.

Applicable Administrative Procedures and Executive Orders

Executive Order 12866

The proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this proposed rule is a significant regulatory action under section 3(f) of Executive Order 12866, and accordingly this proposed rule has been reviewed by the Office of Management and Budget. The Department has also assessed the costs and benefits of this rule. As stated more fully in the Regulatory Flexibility Act section below, this rule imposes no costs on entities requesting information from the FBI because the request for information is entirely optional on the part of the requesting entity. In addition, the regulation imposes no cost on entities providing information to the FBI, as the new requirement is entirely dependent on what information those entities, in their discretion, choose to submit. The FBI anticipates that its costs for processing the additional information that this rule proposes to make available will be covered by its current and future appropriations. Further, the FBI believes that this rule provides substantial, but difficult to quantify, benefits by enhancing the reliability of background checks for noncriminal justice employment and licensing purposes and providing greater opportunity for latent fingerprint searches.

Executive Order 13132—Federalism

This proposed regulation will not have a substantial, direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. While it provides that States may submit additional fingerprints, it does not require their submission.

In drafting this proposed rule the FBI consulted the FBI's Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is an advisory committee established pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2. It consists of representatives of numerous Federal, State and local criminal justice agencies across the United States. It recommends general policy to the FBI Director regarding the philosophy, concept, and operational principles of the IAFIS, Law Enforcement Online, National Crime Information Center, National Instant Criminal Background Check System, Uniform Crime Reporting, and other systems and programs administered by the FBI's CJIS Division. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

The proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this proposed regulation and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This rule imposes no costs on businesses, organizations, or governmental jurisdictions (whether large or small). On the contrary, it proposes changes to Department regulations that will allow the FBI to respond more fully to requests for CHRI by including NSO information, thereby enhancing the utility of latent fingerprint searches and the reliability of background checks for noncriminal justice employment and licensing purposes.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 804. This proposed rule will not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The proposed rule does not contain collection of information requirements. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, is not required.

List of Subjects in 28 CFR Part 20

Classified information, Crime, Intergovernmental relations, Investigations, Law enforcement, Privacy.

Accordingly, part 20 of title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 20—CRIMINAL JUSTICE INFORMATION SYSTEMS

1. Revise the authority citation for part 20 to read as follows:

Authority: 28 U.S.C. 534; 42 U.S.C. 14614(c), 42 U.S.C. 14615; Pub. L. 92–544, 86 Stat. 1115; 42 U.S.C. 3711, *et seq.*; Pub. L. 99–169, 99 Stat. 1002, 1008–1011, as amended by Pub. L. 99–569, 100 Stat. 3190, 3196; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

2. Revise § 20.32 to read as follows:

§ 20.32 Includable offenses.

The III System and the FIRS shall maintain fingerprints and criminal history record information relating to adult and juvenile offenses submitted by criminal justice agencies for retention, consistent with the FBI's capacity to collect and exchange such information, except where non-retention of such fingerprints is specified by the submitting agency.

3. In the appendix to part 20 revise the discussion of § 20.32 to read as follows:

Appendix to Part 20—Commentary on Selected Sections of the Regulations on Criminal History Record Information Systems

* * * * *

§ 20.32. This section requires the FBI to retain all fingerprints and criminal history record information relating to adult or juvenile serious offenses submitted for retention by a criminal justice agency and enables the FBI to retain all fingerprints and criminal history record information relating to adult or juvenile nonserious offenses submitted for retention by a contributing agency, consistent with the FBI's authority to collect and exchange such information, as set out at 28 U.S.C. 534, except where non-retention of such fingerprints is specified by the submitting agency. The FBI is to implement this requirement consistent with the FBI's capacity to collect and exchange such information.

Dated: August 28, 2006.

Paul J. McNulty,

Acting Attorney General.

[FR Doc. E6–14605 Filed 9–1–06; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018–AT29

Injurious Wildlife Species; Silver Carp (Hypophthalmichthys molitrix) and Largescale Silver Carp (Hypophthalmichthys harmandi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of environmental documents.

SUMMARY: The U.S. Fish and Wildlife Service proposes to add all forms (diploid and triploid) of live silver carp (*Hypophthalmichthys molitrix*), gametes, eggs, and hybrids; and all forms (diploid and triploid) of live largescale silver carp (*Hypophthalmichthys harmandi*), gametes, eggs, and hybrids to the list of injurious fish, mollusks, and crustaceans under the Lacey Act. This listing would have the effect of prohibiting the importation and interstate transportation of any live animal, gamete, viable egg, or hybrid of the silver carp and largescale silver carp, without a permit in limited circumstances. The best available information indicates that this action is necessary to protect the interests of human beings, and wildlife and wildlife resources, from the purposeful or accidental introduction and subsequent establishment of silver carp and largescale silver carp populations in ecosystems of the United States.

DATES: Comments must be submitted on or before November 6, 2006.

ADDRESSES: You may submit comments, identified by RIN number 1018–AT29, by any of the following methods:

- *E-mail: silvercarp@fws.gov.* Include ''RIN number 1018–AT29'' in the subject line of the message. See the Public Comments Solicited section below for file format and other information about electronic filing.
- *Fax:* (703) 358–1800.
- *Mail/Hand Delivery/Courier:* Chief, Branch of Invasive Species, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 322, Arlington, VA 22203.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and Regulatory Information Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Erin Williams, Branch of Invasive Species, at *erin_williams@fws.gov,* or (703) 358–2034.

SUPPLEMENTARY INFORMATION:

Background

In October 2002, the U.S. Fish and Wildlife Service (Service) received a petition signed by 25 members of Congress representing the Great Lakes region to add bighead, silver, and black carp to the list of injurious wildlife under the Lacey Act (18 U.S.C. 42). A follow-up letter to the original petition had seven additional Legislator signatures that support the petition. The Service published a **Federal Register** notice of inquiry on silver carp (68 FR 43482–43483, July 23, 2003) and provided a 60-day public comment period. We received 31 comments in total, but 12 of these did not address the issues raised in the notice of inquiry. We considered the information provided in the 19 relevant comments. Most of the comments supported the addition of silver carp to the list of injurious wildlife. One commenter noted that silver carp have no commercial value, but was concerned that listing would hinder control and management. One commenter asked us to delay listing until a risk assessment could be completed. Biological synopses and risk assessments were compiled for silver and largescale silver carp.

Under the terms of the injurious wildlife provisions of the Lacey Act, the Secretary of the Interior is authorized to prohibit the importation and interstate transportation of species designated by the Secretary as injurious. Injurious wildlife are defined as those species and offspring and eggs that are injurious to wildlife and wildlife resources, to human beings, and to the interests of forestry, horticulture, or agriculture of the United States. Wild mammals, wild birds, fish, mollusks, crustaceans, amphibians, and reptiles are the only organisms that can be added to the injurious wildlife list.

Species listed as injurious (including their gametes or eggs) may not be imported into the United States or transported between States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means without a permit issued by the Service. Permits may be granted for the importation or transportation of

injurious wildlife and their offspring or eggs for bona fide scientific, medical, educational, or zoological purposes. A listing would not prohibit intrastate transport or possession of species within States, where not prohibited by the State. Any regulation pertaining to the use of species within States would continue to be the responsibility of each State.

Public Participation

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

This proposed rule solicits economic, biological, or other information on adding all forms of live silver and largescale silver carp, and hybrids, to the list of injurious wildlife. The data will be used to determine if these species are a threat, or potential threat, to those interests of the United States delineated above, and thus warrant addition to the list of injurious fish in 50 CFR 16.13.

We are soliciting public comments and supporting data, to gain additional information, on this proposed rule to add all forms of live silver and largescale silver carp, gametes, eggs, and hybrids, to the list of injurious wildlife under the Lacey Act. *We specifically seek comment on the following questions:*

(1) What regulations does your State have pertaining to the use, transport, and/or production of silver or largescale silver carp?

(2) How many silver carp are currently in culture or used to control algae in ponds, in how many and which States? Please provide the number of silver carp, if any, permitted within each State.

(3) What would it cost to eradicate silver carp or largescale silver carp individuals and/or populations, or similar nonnative populations, if found?

(4) What are the costs of implementing propagation, recovery, and restoration programs for native fish or other native species? What State-listed species would be impacted by the introduction of silver or largescale silver carp?

(5) What is the economic value of commercial fisheries that have been or could be impacted by silver or largescale silver carp?

(6) How many fishermen sell live silver carp?

(7) What are the annual sales and landings for live and/or dead silver carp? What is the magnitude of the commercial market for live silver carp, if any?

(8) What is the consumer surplus generated from fishing for native fish or fishing-related expenditures such as food, lodging, and equipment? What is the ex-vessel revenue from fishing for native fish that are more valuable than silver carp?

(9) What is the economic value of baitfish industries in each State? How would the presence of wild silver carp affect baitfish imports or exports within a State?

Description of the Proposed Rule

The regulations contained in 50 CFR part 16 implement the Lacey Act as amended. Under the terms of that law, the Secretary of the Interior is authorized to prohibit by regulation certain activities involving wild mammals, wild birds, fish, mollusks, crustaceans, amphibians, reptiles, and the offspring or eggs of any of the foregoing that are injurious to human beings, to the interests of agriculture, horticulture, or forestry, or to the wildlife or wildlife resources of the United States. The lists of injurious wildlife species are at 50 CFR 16.11 to 16.15. By adding all forms of live silver carp and largescale silver carp, gametes, eggs and hybrids to the list of injurious wildlife, their importation into the United States, and transportation between States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever would be prohibited, except by permit for zoological, educational, medical, or scientific purposes (in accordance with permit regulations at 50 CFR 16.22), or by Federal agencies without a permit solely for their own use. Federal agencies who wish to import silver or largescale silver carp for their own use must file a written declaration with the District Director of Customs and the U.S. Fish and Wildlife Service Inspector at the port of entry. No live silver carp or largescale silver carp, progeny thereof, viable eggs or hybrids imported or transported under a permit could be sold, donated, traded, loaned, or transferred to any other person or institution unless such person or institution has a permit issued by the U.S. Fish and Wildlife Service. The interstate transportation of all forms of live silver carp or largescale silver carp, gametes, viable eggs or hybrids currently held in the United States for any purpose would be prohibited without a permit.

This action is being considered in order to protect the welfare and survival of native wildlife and wildlife resources and the health and welfare of human beings from the potential negative impacts of silver carp and largescale silver carp by adding them to the list of injurious wildlife and preventing their importation and interstate movement.

Each State can regulate the transportation and possession of silver carp and largescale silver carp within its State boundaries, but States are not able to prohibit the importation into the United States or the interstate transportation of these species. If one State allows the use of either species, and if either species is introduced to natural waters that are connected to other States' waterbodies, the silver or largescale silver carp could be introduced to a State that prohibits their use or possession, potentially impacting that State's natural resources. Many States are asking the Federal Government to prohibit the importation and interstate transportation of silver carp and have submitted letters of support for the addition of silver carp to the list of injurious wildlife. They are concerned that interstate transportation, through trucking accidents or exchange of hauling water, could result in the introduction of silver carp into State waters where they do not exist and are prohibited by State law. In addition, they are concerned that if their importation into the United States is still allowed, silver carp could become established in new waterways where they do not currently exist through human movement. The evaluation of injuriousness follows the biology and natural history summary sections for each species.

Silver Carp

Biology and Natural History

The commonly named silver carp belongs to the family Cyprinidae, with the species name of *Hypophthalmichthys molitrix*. The silver carp is a deep-bodied fish with scale counts typically ranging from 85 to 108. Adult coloration is typically gray-

black along its top with upper sides olive-green that grade to silver along its side and stomach. Fins are dark and without true spines. Large adults can reach over 1.2 meters (m) in length and 50 kilograms (kg) in weight. The gill rakers of silver carp are unique and form a highly specialized filtering apparatus.

The silver carp is a freshwater species that can live in slightly brackish waters. Silver carp occur naturally in a variety of freshwater habitats including large rivers and warm water ponds, lakes, and backwaters that receive flooding or are otherwise connected to large rivers. They also have been introduced to ponds, lakes, reservoirs, and canals where they grow well, but may not spawn and recruit without access to an appropriate riverine habitat. Silver carp usually occupy the upper and middle layers of the water column and are quite tolerant of broad water temperatures: from 4 °C to 40 °C.

Silver carp can be distinguished from all native North American cyprinids, except the golden shiner, by the presence of a well-developed ventral keel. It can be distinguished from the golden shiner in having very small scales (lateral line scales 85–108) compared to the golden shiner (39–51). Silver carp have only four pharyngeal teeth per side in a single row while the golden shiner has five on each side in a single row.

Small silver carp may resemble shad (*Dorosoma* species). Of the nine established nonindigenous cyprinids in the United States, the silver carp is most similar to bighead carp. The silver carp is also very similar to largescale silver carp, a species which is not known to be in the United States.

Though they are considered a deep water, schooling species, in the Missouri River these fish generally stay between 1 and 5 m deep and are rarely observed on the surface until disturbed. Once disturbed, silver carp often swim rapidly near the surface creating a characteristic large wake and regularly jump out of the water, particularly in response to outboard motors.

Hybrids

Hybridization between closely related species of cyprinids (e.g., species of the genus *Hypophthalmichthys*) is not unusual. Silver carp are known to hybridize and to produce viable offspring with both bighead (*Hypophthalmichthys nobilis*) and largescale silver carps. Hybrids of silver and bighead carps are often used in aquaculture in other countries. Both crosses (bighead carp × silver carp and the reciprocal cross) are fertile. Hybrids of bighead and silver carps often strongly resemble one or the other of the parent species.

Bighead carp x silver carp are common in parts of the United States and are likely to be the result of wild spawning, not escapement of artificially induced hybrids because neither silver carp nor the hybrids are known to be in use in aquaculture in the United States. Five percent of the adult *Hypophthalmichthys* caught in the lower Missouri River in 2004 were hybrids. Hybridization between closely related cyprinid fishes occurs most commonly where a species has been introduced; hybridization between cyprinids typically occurs when members of related species share similar spawning habitat, behavior, and season because of the loss of environmental cues that inhibit hybridization behavior. The presence of large numbers of wild-spawned hybrids implies that bighead and silver carps often spawn in the same place at the same time in United States waters. Although there has been moderate success in artificially producing hybrids of *Hypophthalmichthys* spp. and common carp (*Cyprinus carpio*), the spawning locations and behaviors of the two genera are so different that production of wild hybrids would be unlikely.

Habitat Use

Silver carp in the Missouri River occupy primarily low-velocity water 1 to 5 m deep in all months of the year and use low-velocity sections of Missouri River tributaries. Adult silver carp aggregate in pool habitats to overwinter. Preliminary research indicates that silver carp in the Missouri River are active in winter, with activity slowing at less than 4 °C and little movement occurring at temperatures below 2 °C. Silver carp used tributaries to larger rivers in the summer.

Large lakes connected to rivers often serve as nursery areas for silver carp. Juvenile silver carp typically remain in backwater habitats whereas adults are typically found in main channels of rivers. There is limited data about the habitat use of juvenile silver carp in the United States because their introduction, spread and establishment is relatively recent and ongoing. Young-of-year silver carp were found in abundance in the backwaters of the middle Mississippi River, and juvenile silver carp were collected in low-velocity and off-channel habitats in the Missouri, Mississippi, Wabash, and lower Ohio rivers. Young-of-year (<100 millimeters (mm)) and juvenile (100–500 mm) silver carp collected for the Long Term Resource Monitoring Program (LTRMP), of the U.S. Army Corps of Engineers, were found in similar proportions between main channel borders, side channel borders, and contiguous backwaters.

Reproduction and Growth

The reproductive potential of silver carp is high and increases with body size. Estimates range from 145,000–5,400,000 eggs for fish 3.18–12.1 kg. Eggs must be incubated in waters with fairly high ionic concentrations. Silver carp mature anywhere from 3–8 years, and males usually mature one year earlier than females. Silver carp use discrete spawning sites repeatedly. Silver carp usually spawn in the spring and early summer after a rise in water levels with water temperatures ranging from 18–26 °C, though larva has been collected from the lower Missouri River in late August to mid-September. Eggs are semi-buoyant, so spawning typically occurs in water of sufficient flow to keep the eggs from sinking to the bottom and dying. The same female may spawn twice during one growing season. There are indications of a prolonged spawning period, into late summer or early fall, in the United States.

Silver carp can grow quickly: 20 to 30 kg in 5 to 8 years, and survival of silver carp in some culture ponds was 91%. Water temperatures for maximum growth of silver carp are between 24–34 °C. Silver carp are difficult to age, but have been reported to live 15–20+ years.

Diet and Feeding Habits

Silver carp are primarily phytoplanktivores, but are highly opportunistic, eating phytoplankton, zooplankton, bacteria and detritus. Silver carp will also bite on bread paste and dough balls used as bait. Silver carp can effectively filter and consume smaller particles than bighead carp. Their food consumption rate is high, but widely variable. Fry at the smallest size class consumed up to 140% of their body weight daily; 63 mg fingerlings consumed just more than 30% and 70–166 mg fingerlings consumed 63% of their body weight. Adult silver carp have been shown to consume 8.8 kg of food per year, with 90% of the consumption occurring during the three warmest months of the year. In the Missouri River, silver carp sometimes had full guts at temperatures lower than 4 °C. Studies consistently show that filter feeding by silver carp shifts the species composition of the phytoplankton community to smaller species. Silver carp consume zooplankton, especially when phytoplankton abundance is low. Studies also consistently show that the

presence of silver carp results in a zooplankton community dominated by smaller individuals.

History of Introduction

There are conflicting reports about the first importation of silver carp into the United States. One report said that silver carp were introduced in 1971 from Taiwan for algae control in sewage lagoons. Another report stated that silver carp were introduced in 1972 under an agreement of maintenance with the Arkansas Game and Fish Commission. A third citation said silver carp were introduced into Arkansas in 1973 as a potential addition to fish production ponds. Regardless of the specific date, the major pathway for introduction of silver carp in the United States was importation for biological control of plankton in sewage lagoons and culture ponds. The pathway that led to presence of this species in open waters probably was escape from facilities. There is little, if any, current use of silver carp for algae control.

Soon after importation, silver carp were used in research projects and stocked into wastewater treatment lagoons and impoundments in several States. In 1974 or 1975, silver carp were collected from Bayou Meto and the White River, Arkansas County, Arkansas. In January 1980, several silver carp were collected from Crooked Creek, northeastern Arkansas County, which flowed through two private fish hatcheries possessing silver carp. By 1981, silver carp had been collected from the White, Arkansas, and Mississippi rivers in Arkansas. From there, they continued to spread through the Mississippi River Basin. Silver carp have been collected from the natural waters of 16 States and Puerto Rico. Silver carp are well established throughout much of the Mississippi River Basin, and its range appears to be expanding in that basin.

Pathways of Introduction

There are several potential pathways for further introductions of silver carp into additional water bodies that may spread existing populations of silver carp in the United States. One pathway is through the release of baitfishes contaminated with silver carp. Other potential pathways that would likely spread silver carp to new waterbodies in the United States include intentional release, ballast water release, spread by commercial fishing activities, and release or escape from livehaulers that support commercial fishing or release associated with the sale of the species in live food fish markets, regardless of whether the fish were cultured in fish farms or were caught live in the wild. Silver carp may be introduced and become established in new waterways beyond their current ranges through human use and movement.

Uses

Worldwide more silver carp are produced than any other species of freshwater fish; they are raised for food or stocked for fishing. Silver carp are not presently being cultured commercially for food in the United States and have been minimally cultured in the last 20 years. The ability of silver carp to effectively filter particles and reliance on phytoplankton for much of its diet has led to the use of silver carp as a biological control agent for phytoplankton. Silver carp have been studied as a potential tool for controlling excess nutrients in wastewater ponds, with mixed results.

Native Range and Potential Range in the United States

In Asia (China and Eastern Siberia), silver carp are native from about 54 °N southward to 21 °N. Most of North America falls within these latitudes. This fact, along with establishment of this species in countries with climates as tropical as Vietnam, as cold and arid as Afghanistan and Pakistan, and as temperate as Kyrgyzstan and Latvia, leads to the conclusion that climate alone in the United States should not limit distribution of silver carp.

Silver carp are likely to become established in the Great Lakes, especially given their close proximity. There are 22 rivers flowing into Lakes Erie, Huron, Michigan, and Superior that are potential spawning sites for silver carp. The Genetic Algorithm for Rule-Set Prediction (GARP) niche modeling tool estimates that United States distribution of silver carp could highly likely include most of the Midwest and eastern U.S. waterways, including the Chesapeake Bay, and tributaries, and the Connecticut River system. Based on the GARP model, silver carp, if introduced, are likely to also establish in the Columbia River system in the Northwest and possibly in parts of the Colorado and Sacramento/San Joaquin systems.

Because food availability, predation, and competition are not known to limit populations of this species elsewhere, access to habitats required for successful reproduction (i.e., substantial lengths of flowing water) will play a large role in determining potential range of silver carp in American waters. Another factor that may limit the distribution of silver carp in the United States is the requirement to incubate eggs in waters with fairly high ionic concentrations.

Largescale Silver Carp

Biology and Natural History

The commonly named largescale silver carp (or southern silver carp, Vietnamese carp, or Harmandi silver carp) belongs to the family Cyprinidae, with the species name of *Hypophthalmichthys harmandi.*

The largescale silver carp is physically most similar to the silver carp, but does resemble bighead carp as well. The relatively larger scale size of the largescale silver carp is the most reliable characteristic to distinguish it from silver carp. The number of scales along the lateral line of the largescale silver carp range from 77 to 88 compared to the silver carp with 85 to 108. Scale rows above the lateral line in largescale silver carp range from 21 to 23 compared to 29 to 30 in the silver carp.

Because largescale silver carp remain deep in the water column during daylight hours and swim toward the surface at night to feed on plankton, they may be less prone to jumping than silver carp in response to sounds of boat engines during daytime.

Hybrids

Largescale silver carp are known to hybridize and to produce viable offspring with silver carp. In northern Vietnam, native largescale silver carp, introduced silver carp, and their hybrids are cultured together. Largescale silver carp grow faster than silver carp but hybrids do not grow as quickly as pure largescale silver carp. No additional information on polyculture of largescale silver carp with other fish species was found. Largescale and silver carp hybrids are tolerant of a temperate climate (ca. 42–46 °N).

Habitat Use

Largescale silver carp prefer slow-moving, plankton-rich open waters. This species is a nocturnal feeder and remains in deeper waters during daylight hours. Largescale silver carp is most closely related to silver carp, with which it hybridizes, therefore its salinity tolerance is probably similar to that of silver carp, which is a freshwater species that can live in slightly brackish waters.

Reproduction and Growth

The reproductive capability is expected to be similar to that of silver carp, though largescale silver carp reach sexual maturity at a younger age than silver carp. Females reach maturity in 2 years and males in 1 year. Spawning

typically occurs in rivers during rains or floods in May and June, although spawning may be postponed until mid-August. Because largescale silver carp and silver carp are closely related and hybridize, spawning requirements are likely similar.

The mean growth rate is greater for largescale silver carp than for silver carp. No information was found on longevity of largescale silver carp, but silver carp can live 15–20+ years suggesting the possibility of a similar longevity in the closely related largescale silver carp. Some adults may weigh 20–30 kg.

Diet and Feeding Habits

Largescale silver carp feed on phytoplankton and prefer slow-moving, plankton-rich open waters. This species is a nocturnal feeder and remains in deeper waters during daylight hours. Because this species is most closely related to silver carp, their food and feeding habits are likely similar.

Uses

There is no indication that the largescale silver carp have been imported into or introduced into the open waters of United States. Largescale silver carp are considered the most important species for culture in Vietnam; the rapid growth and high fat content of this fish has made it an economically important species for food. Because this species is most closely related to silver carp, its potential effectiveness in controlling algae and its effect on excess nutrients in closed systems is possibly similar to that of silver carp.

Native Range and Potential Range in the United States

Largescale silver carp are native to fresh waters of northern Hainan Island, China, and the Red (Hong Ha) River of northern Vietnam. The native range of largescale silver carp is subtropical to tropical (21–22 °N), making it the southernmost fish of the genus. The species does not occur naturally on the Chinese mainland.

Within its native range, largescale silver carp occur in subtropical to tropical climates. Therefore, should pure stock be introduced to U.S. waters, its potential range would likely be limited to subtropical waters such as those present in southern Florida, southern Texas, and Hawaii. Lack of access to suitable rivers for spawning in these areas may preclude successful spawning. Hybrids of largescale silver and silver carps, however, would be expected to tolerate temperate waters as they do in Kazakhstan at about 42–46 °N.

Factors That Contribute to Injuriousness for Silver Carp

Introduction and Spread

The major pathway for introduction of silver carp in the United States was importation for biological control of plankton in culture ponds and sewage lagoons. The pathway that led to the presence of this species in open waters of the United States was probably escape from these facilities. Subsequent escapes and the mixture of silver carp with other species that were stocked may have contributed to the expansion of the species' range.

Silver carp are difficult to handle and transport because of their propensity to jump and avoid being taken by seines. These attributes have resulted in little silver carp culture in the United States since 1985. Silver carp are not being cultured commercially at this time; however, should culture of silver carp resume, a potential pathway for introduction would be escape or release from a facility or during the transport and sale of live fish in retail markets.

Other more likely pathways that may aid the spread of existing populations of silver carp include connected waterways, contamination of pond-grown baitfishes with silver carp, ballast water release, release or escape from livehaulers that support commercial fisheries, or spread by commercial fishers themselves.

Wild silver carp are at risk of being spread when juveniles are collected by cast net for use as live baitfish. Silver carp juveniles are very similar in appearance to shad and anglers sometimes catch young silver carp and use them as live bait. Release of live bait has been identified as a source for more than 100 introductions of fishes beyond their natural range in the United States. Although adult and market-sized silver carp are fragile and do not survive collection and transport well, fingerling silver carp are less susceptible to mortality due to handling stress.

Other potential pathways for further introductions of silver carp into the wild involve those associated with the sale of the species in live food fish markets. Silver carp, caught as bycatch, may be sold as fillets or to live fish markets. Another potential pathway is the intentional release of silver carp through prayer release (the ceremonial release of a fish in honor of the one that will be eaten).

Silver carp have survived, become established in river systems, and have been reproducing in natural waters of the United States since at least 1995. Because silver carp can occupy lakes, there is serious concern that this species will further expand its range in the United States beyond riverine environments and into lake environments including the Great Lakes. In its native range, juveniles and adults are found in lakes and reservoirs. Silver carp may be capable of establishing reproducing populations in other major river systems, such as the Potomac/Chesapeake, Columbia, and Sacramento/San Joaquin Delta.

Hybrids

Hybridization of silver carp with native fishes is not possible, but hybridization has occurred between silver carp and bighead carp (*H. nobilis*), a nonnative species also present in the Mississippi River basin, and between silver carp and largescale silver carp (*H. harmandi*). Hybridization may also be possible with grass carp.

Potential Effects on Native Species

Competition for food and habitat with other planktivorous fishes and with post-larvae and early juveniles of most native fishes is likely high. Since nearly all fishes are planktivorous as larvae and juveniles, it is highly likely that silver carp will adversely affect most native fishes in the Mississippi River and also the Great Lakes basins, if established. Silver carp will most likely affect native adults in the Mississippi River Basin, such as paddlefish (*Polyodon spathula*), bigmouth buffalo (*Ictiobus cyprinellus*), gizzard shad (*Dorosoma cepedianum*), the regionally abundant emerald shiner (*Notropis atherinoides*), and threadfin shad (*Dorosoma petenens*), particularly in waters where food may become limited.

Paddlefish, native to the Mississippi River Basin and Gulf of Mexico river drainages from east Texas to Alabama, is a large river fish that has declined in abundance in recent years because of overharvest and habitat alteration. Like the silver carp, paddlefish use plankton as its primary food source, so silver carp or hybrids would directly compete with paddlefish for food throughout most of the paddlefish's range. Other fish, such as the buffalos or shads, use both plankton and aquatic invertebrates as food. While these fishes are currently more common than paddlefish, they may be at risk if silver carp or silver x largescale silver carp hybrids or silver x bighead hybrids are able to establish and reduce plankton. Gizzard shad are a primary forage base for predacious fishes and important to the ecology of Midwestern rivers; thus, the potential

competition with silver carp in these waters is cause for concern.

If silver carp negatively affect important planktivorous forage fishes such as the gizzard shad and emerald shiner, fishes and birds that prey on these species would likely also be negatively affected. Adult silver carp are too large to be preyed on by almost any native predator. Young silver carp have likely been incorporated into the diets of piscivorous birds and fishes to some degree, but the extent of this predation is not known. Ecosystem balance is likely to be modified if silver carp populations become large enough to dominate other planktivorous fish species. Silver carp will likely have major effects on nutrient cycling and may have adverse effects on primary productivity, which could alter food webs and ultimately alter nutrient and energy cycling in aquatic communities. The most likely negative effect would be an alteration of fish community structure through competition for food. Fishes and mussels that are determined to be candidates for listing under the Endangered Species Act would be at risk.

Habitat Degradation

There is low risk of silver carp causing direct habitat degradation and/or destruction, although the presence of silver carp is sometimes associated with decreased water clarity, which may also impact benthic chemistry and community structure. The effect of these fishes on nutrients, sediment re-suspension (which can stimulate plankton growth), and decreasing dissolved oxygen varies. Excrement from silver carp (which can equal their body weight in 10 days) has organically enriched lake bottoms and altered the benthic macroinvertebrate community structure. Once established, these fish are likely to cause shifts in the food web and compete with other zooplanktivorous fishes and fish larvae for food. Changes in the community structure towards smaller size plankton may have negative effects on fishes native to the United States that subsist on larger zooplankton.

Potential Pathogens

Many species of parasites and bacterial diseases occur in silver carp. The only viral disease agent of silver carp found in the literature is *Rhabdovirus carpio*, the causative agent for spring viraemia of carp (SVC), a systemic, acute, and highly contagious infection commonly occurring in the spring when water temperatures are below 18 °C. Silver carp are susceptible to many diseases caused by parasitic protozoans and trematodes and several crustaceans have also been reported from silver carp.

Although there have been studies of disease-causing agents of silver carp, none have dealt with transfer of these pathogens to native fishes of the United States. Two parasites are a potential threat to native North American fishes, including cyprinids: Gill-damaging *Lernaea cyprinacea*, known as anchorworm (this parasite is also known to affect salmonids and eels), and *Bothriocephalus acheilognathi*, known as Asian carp tapeworm. The Asian carp tapeworm has infected native fishes of concern in five States: Arizona, Colorado, Nevada, New Mexico, and Utah. Silver carp are hosts of this parasite, but suffer minimal adverse effects from it. As hosts of this tapeworm, silver carp have the potential to spread it to native fishes beyond the five states listed above. This is a parasite that erodes mucus membranes and intestinal tissues, often leading to death of the host.

Some disease-causing agents harbored by silver carp pose health risks to humans. The psychotropic pathogen *Listeria monocytogenes* has been found in market and fish farm samples of silver carp. *Clostridium botulinum* was found in 1.1% of fresh and smoked samples of silver carp from the Mazandaran Province in Iran. The toxigenic fungi *Aspergillus flavus*, *Alternaria*, *Penicillium*, and *Fusarium* were found from silver carp and from pond water in which they were raised at a fish farm in northern Iran. In addition, live *Salmonella* spp. can be found in silver carp for at least 14 days after transfer to clean water and silver carp, therefore, should be considered as a potential carrier for *Salmonella* (*S. typhimumium*).

Potential Impacts to Threatened and Endangered Wildlife

Adverse effects of silver carp on selected threatened and endangered freshwater mussels and fishes is likely to be moderate to high. There are currently 116 fishes and 70 mussels on the Federal List of Endangered and Threatened Wildlife. Based on habitat requirements, it appears that 40 fishes and 25 mussels currently on the list would likely be impacted by the introduction and establishment of silver carp. Habitat requirements, springs and small streams, of the remaining listed fishes and mussels would probably preclude any detectable effects as it is unlikely that silver carp could survive in such small bodies of water.

Adverse effects of established populations of silver carp on endangered and threatened fishes and mussels would vary between the two groups. Adverse effects to fishes would most likely be through direct competition for food resources, particularly phytoplankton and, to a lesser extent, zooplankton, in the water column during the larval stage. Potential for direct predation and injury of drifting fertilized eggs and larvae of native fishes also exists. Mussels are also filter feeders but live partly or totally buried in the substrate. Their association with the benthic environment means that they would be less likely to be affected by filter-feeding silver carp. Nevertheless, changes in the fish community structure caused by silver carp are likely to have adverse effects on abundance and availability of host fishes required for mussel reproduction. Nutrient levels are a concern because there is evidence of overloading of nutrients in waters where silver carp have been introduced. Silver carp may consume too much of the food in the water and compete with native species for food. Excrement from silver carp has been found to increase levels of certain nutrients, some which cannot be consumed by other animals in the digested form or may be harmful, which may lead to a net decrease in food resources available.

The likelihood that silver carp would have adverse effects on designated critical habitats of threatened and endangered species is significant. There are currently 60 species of fishes and 18 mussels with designated critical habitat. Of the fishes and mussels with critical habitat, at least 26 inhabit lakes or reaches of streams large enough to support silver carp.

In some habitats, silver carp can develop extremely large populations that would likely further imperil native fishes not currently on the Federal List of Endangered and Threatened Wildlife. Large populations of silver carp are likely to alter the native fish community structure, resulting in decline of native mussels since many rely on native host fishes for reproduction. The fact that silver carp can become extremely abundant and reach a very large size (> 1 m in length) in rivers, lakes, and reservoirs increases the probability of a negative impact on aquatic ecosystems they invade.

Potential Control

Due to the extensive established range of silver carp in the Mississippi River Basin, conventional control methods are not feasible to reduce established populations. The damage to ancillary fisheries resources through control measures would be substantial. Netting

and electrofishing may be effective in reducing populations, but many non-target fish species would also be killed where such control measures are used. Selective removal of silver carp is possible given their location in the water column, but water trawling could also remove other non-target fish such as paddlefish.

Use of chemical treatments, such as rotenone, would be expensive, only locally effective, and would negatively affect all fishes and invertebrates, not just the target carp. Chemical treatment of the Mississippi River and other large rivers in the United States to control silver carp is not feasible, either logistically or economically, and would have a low likelihood of success. Even most nonlethal methods to prevent the spread of silver carp, such as electrical barriers or acoustic, physical, or bubble barriers, would negatively affect migratory native fishes. This effect might be minimized, if somewhat species-specific sonic barriers were developed. Treatment of ballast water in vessels moving from waters containing reproductive populations of silver carp to waters devoid of these fishes may become necessary. At present, there is no method known to substantially reduce established populations of silver carp. On the basis of presently available technology, eradication is not possible.

Impacts to Humans

Silver carp in the United States cause substantial impacts to the health and welfare of human beings that use waterways infested with silver carp. There are numerous reports of injuries to human beings and damage to boats and boating equipment because of the jumping habits of silver carp in the vicinity of moving motorized watercraft. Some reported injuries include cuts from fins, black eyes, broken bones, back injuries, and concussions. Silver carp also cause property damage including broken radios, depth finders, fishing equipment, and antennae. Some vessels have been fitted with a Plexiglas pilot's cab as protection against jumping silver carp.

Factors That Reduce or Remove Injuriousness for Silver Carp

Control

The large and growing range of silver carp in U.S. waterways makes chemical control of established populations highly unlikely, both physically and fiscally. Some control might be possible with massive fishing efforts. Justifying the expense of such efforts would require a large commercial demand, which does not currently exist, nor is likely given the jumping behavior of silver carp which makes fishing difficult.

The ability to control spread of established populations depends on their access to open waterways and riverine habitat to spawn. Barriers may help control the spread of silver carp from the Mississippi River basin into the Great Lakes or other waterbodies. However, there are still several pathways by which silver carp from established populations in the Mississippi River Basin might be moved to new waterbodies, such as the Potomac River or Columbia River, and have the potential to become established.

Recovery of Disturbed Sites

Because the ability to eradicate this species is low, there is little likelihood for rehabilitation or recovery of ecosystems disturbed by this species. Additionally infested waterways allow connections to unpopulated sites. Utilizing sterile silver carp would do little to reduce or remove injuriousness as the present range of establishment in the Mississippi River Basin is too extensive for this option to reduce current silver carp populations in this area. The use of daughterless fish technology (introducing sterile males to produce unviable eggs) may reduce populations, but this would take many years before it would reduce numbers of fish where they currently exist. Research is being conducted on the use of pheromones to control carp, but it is years from demonstrating effectiveness in natural waters and mass production. These technologies might be useful to prevent establishment of silver carp in new areas.

Potential Pathogens

The potential for silver carp to infect native fishes with pathogens is largely unknown. Should such transfers prove viable, the ability and effectiveness to control these transfers to native fishes would be low. The Asian carp tapeworm, for which silver carp is a known host, has demonstrated potential to jump to native species of several orders in other nations and within U.S. waters.

Potential Ecological Benefits for Introduction

The ability of silver carp to effectively filter particles and reliance on phytoplankton for much of its diet led to research into their effectiveness as a biological control agent for phytoplankton in wastewater systems and other ponds. There is conflicting data concerning the benefit of using silver carp to control excess nutrients. Regardless of their effect on increasing or decreasing phytoplankton and zooplankton abundance, studies have consistently shown that filter feeding by silver carp shifts the species composition of these communities to smaller species. Silver carps' effectiveness has also been shown to be greatly influenced by the design of the facility.

Conclusion

Because silver carp are likely to spread from their current established range to new waterbodies in the United States; are likely to compete with native species for food and habitat; are likely to have negative impacts on humans; are known to hybridize with bighead carp, a nonnative species also established in the United States; and because it would be difficult to eradicate, reduce large populations, or recover ecosystems disturbed by the species, the Service finds silver carp to be injurious to the interests of human beings and the wildlife and wildlife resources of the United States.

Factors That Contribute to Injuriousness for Largescale Silver Carp

Potential Introduction and Spread

To our knowledge, the largescale silver carp has not been imported into the United States. Its growth rate is greater than that of silver carp, and the species reaches sexual maturity sooner than silver carp. In culture situations, introduced silver carp hybridized with largescale silver carp. The hybrids did not grow as quickly as largescale silver carp but exceeded the growth rate of silver carp. Largescale silver carp x silver carp hybrids were introduced in Kazakhstan where they became established. The climate of Kazakhstan is temperate; thus, largescale silver carp x silver carp hybrids are more cold-tolerant than pure largescale silver carp. The faster growth rate of these hybrids than pure silver carp and the increased palatability of largescale silver carp compared to silver carp may conceivably stimulate interest in culturing either the hybrids or pure largescale silver carp in the United States. Because hybrids can tolerate temperate climates, they have the potential to be cultured in many southern States. Culture of pure largescale silver carp would probably require subtropical/tropical conditions.

Escape from containment, as has happened with silver carp, would provide a pathway for release of largescale silver carp into natural

waters. Should this fish or its hybrids be released into natural waters, connected waterways would become a secondary pathway for spread. Because of the morphological similarity between this species and silver carp, stock contamination of silver carp by largescale silver carp is possible if imported from regions with populations of *H. harmandi.* Another possible introduction pathway, should largescale silver carp or their hybrids be imported for culture, would be sale of live individuals in food fish markets.

Likelihood of spread of largescale silver carp, should they be introduced, would be high in subtropical/tropical waters of the United States, but only where river flows are sufficient to support spawning. Hybrid largescale silver carp x silver carp, however, would have high potential to live in much of the temperate United States. Because largescale silver carp can occupy reservoirs, they could also live in lakes. The same is likely true for hybrids. Young largescale silver carp or any hybrids captured by anglers for use as live bait would be a pathway that could lead to numerous future introductions of these species.

Hybrids

Hybridization with native fishes is not believed to be possible. Largescale silver carp can hybridize with silver carp and possibly bighead carp, both of which are present in U.S. waters. Hybrids of largescale silver carp are known to have survived and became established in Kazakhstan at a latitude of approximately 45 °N, a latitude that parallels the border between New York State and Ontario, Canada. Therefore, it can be assumed that these hybrids would be capable of surviving and probably establishing throughout much of the United States where suitable waters exist.

Potential Effects on Native Species

Largescale silver carp consume primarily planktonic food sources. It is unknown if largescale silver carp feed more heavily on phytoplankton than zooplankton, but their hybrids with silver carp would likely show a preference for phytoplankton. Largescale silver carp and hybrids are highly likely to compete for food with other planktivorous native fishes and with post-larvae and early juveniles of most native fishes should they become established in the United States.

Fishes most likely to be affected are those species whose diet is predominantly plankton including paddlefish (*Polyodon spathula*), native to the Mississippi River Basin and Gulf of Mexico river drainages from east Texas to Alabama, buffalos (*Ictiobus* spp.), or shads (*Dorosoma* spp.). Given that these fish may already be competing with bighead and silver carps in some areas, the presence of largescale silver carp would increase food competition and increase the threat of negative impacts to native species.

Potential for direct predation and injury of drifting fertilized eggs and larvae of fishes exists. Mussels are also filter feeders but live partly or totally buried in the substrate; they would be less likely to be affected by filter-feeding largescale silver carp or their hybrids. Largescale silver carp feed in the water column at night. Nevertheless, changes in the fish community structure caused by largescale silver carp or hybrids would likely have adverse effects on abundance and availability of host fishes required for mussel reproduction.

There are other possible, but less likely, effects that will cascade through any aquatic ecosystem with an established population of largescale silver carp or their hybrids. Nutrient levels are a concern because there is evidence of overloading of nutrients in waters into which silver carp have been introduced, and the same may apply to largescale silver carp or their hybrids.

Habitat competition would likely be low unless populations become significantly large. The potential of largescale silver and any hybrids to cause habitat degradation and/or destruction is low as is possible predation on native wildlife.

Additional adverse impacts on native wildlife, wildlife resources, and ecosystem balance are likely few, except for fishes. Ecosystem balance would likely be modified if populations of largescale silver carp or their hybrids with silver carp become large enough to dominate planktivorous fish species.

Because largescale silver carp may survive and become established and compete with native fishes, there is no acceptable escape or release threshold for largescale silver carp or their hybrids.

Potential Pathogens

The potential for largescale silver carp to transfer pathogens is largely unknown. No detailed studies of disease-causing agents of largescale silver carp have been found, but at least three trematode parasites (*Dactylogyrus harmandi, D. hypophthalmichthys, D. chenthushenae*) are known to infect largescale silver carp. Bighead, silver, grass, and black carps are known to host the Asian carp tapeworm (*Bothriocephalus acheilognathi*), but it is unknown whether largescale silver carp host this species. Since largescale silver carp are very similar to silver carp, they likely can host the Asian carp tapeworm.

Potential Impacts to Threatened and Endangered Wildlife

Adverse effects of largescale silver carp on selected threatened and endangered freshwater mussels and fishes would be expected to be moderate to high. There are currently 116 fishes and 70 mussels on the Federal List of Endangered and Threatened Wildlife. Based on habitat requirements, it appears that 40 fishes and 25 mussels currently on the endangered or threatened species list would likely be impacted by the introduction and establishment of largescale silver carp. However, the habitat requirements, springs and small streams, of the remaining listed fishes and mussels would probably preclude any detectable effects as it is unlikely that largescale silver carp or their hybrids would survive in such small bodies of water.

It is highly likely that largescale silver carp and particularly their hybrids with silver carp would have adverse effects on designated critical habitats of threatened and endangered species. There are currently 60 species of fishes and 18 mussels with designated critical habitat. At least 26 fishes and mussels with critical habitat inhabit lakes or reaches of streams large enough to support hybrids of largescale silver carp and silver carp. Largescale silver carp and their hybrids have the potential to alter food webs and ultimately alter nutrient and energy cycling in aquatic communities. The most likely effect would be an alteration of fish community structure through competition for food. Fishes and mussels that are determined to be candidates for listing under the Endangered Species Act would likewise be at risk.

There is low likelihood that species may be placed in danger of extinction as a result of the introduction or establishment of largescale silver carp if only pure stock escaped and became established in subtropical/tropical waters in the United States. Yet, the potential exists for hybrids with silver carp to develop large populations that could further imperil native fishes not currently on the Federal List of Endangered and Threatened Wildlife. Large populations of hybrids with silver carp would likely alter native fish community structures, ultimately resulting in decline of native mussels since many rely on native host fishes for reproduction. The fact that hybrids have the potential to become abundant and

reach a very large size, > 1 m in length, in rivers, lakes, and reservoirs, increases the probability of a negative impact on aquatic ecosystems should largescale silver carp be introduced and become established.

Potential Control

Due to the potential range of establishment of hybrid largescale silver carp x silver carp in the United States, conventional control methods would not be feasible. The damage to ancillary fisheries resources through control measures would be substantial. Netting and electrofishing might be effective in reducing local populations of largescale silver carp, but they would also affect native fishes present in the area where such control measures are used. Similarly, use of chemical treatments would be expensive, only locally effective, and would negatively affect all fishes and invertebrates. Even most nonlethal methods to prevent the spread of largescale silver carp, such as electrical barriers or bubble curtains, would negatively affect migratory native fishes. At present, there is no method known to substantially reduce populations of established fishes in U.S. waterways. On the basis of presently available technology, eradication would not be possible.

Potential Impacts to Humans

The potential impact on the health and welfare of humans from largescale silver carp or any hybrids is unknown. If largescale silver x silver hybrids display the jumping behavior of pure silver carp, their potential to injure humans could be considerable. Impacts to agriculture, horticulture or forestry from largescale silver carp or hybrids are highly unlikely.

Factors That Reduce or Remove Injuriousness for Largescale Silver Carp

Detection and Response

If largescale silver carp were introduced into U.S. waters, it is unlikely that the introduction would be discovered until the numbers were high enough to impact wildlife and wildlife resources. Widespread surveys of waterways are not conducted to establish species' presence lists. Delay in discovery would limit the ability and effectiveness to rapidly respond to the introduction and prevent establishment. It is unlikely that hybrid largescale silver x silver carp could be eradicated from U.S. waterways, should they be introduced, unless they are found in unconnected waterbodies.

Control

If hybrid largescale silver x silver carp were to escape and become established in natural waters, management of established populations would be nearly impossible both physically and fiscally. Some control might be possible with massive fishing efforts using nets, but this would unlikely stem range expansion. There would have to be substantial commercial demand to justify the expense of such efforts.

Chemicals or selective removal may be used to manage populations in localized areas. However, selective removal of largescale silver carp would be difficult because they remain in deeper waters during daylight hours when such removal efforts would probably occur. If largescale hybrids lack this behavior, then selective removal may be feasible in specific situations. Pheromones may be a viable option to limit spread; this possibility is under investigation for silver carp, and may have applicability to largescale silver carp and any hybrids. However, research into this control method is in early stages.

It would be difficult to control the spread of largescale silver carp or any hybrids to new locations except, perhaps, by use of electric, acoustic, physical and other types of barriers. At present, there is no method known to substantially reduce populations of introduced fishes in U.S. waterways. On the basis of presently available technology, eradication would not be possible.

Although there is no evidence that this species has been introduced or targeted for introduction into the United States, its affinities with silver carp indicate that should it or its hybrids with silver carp be introduced, abilities to eradicate, manage or control spread to new locations would likely be low. Therefore, rehabilitation or recovery of ecosystems disturbed by this species or its hybrids is unlikely. Introduction of largescale silver carp or its hybrids has no known potential ecological benefits.

Because no evidence exists that largescale silver carp have been imported or released into U.S. waters, triploidy or induced sterility could potentially reduce or eliminate injuriousness. Nevertheless, these processes are likely to be costly, time-consuming, and not 100% effective. Should this species be imported, it is likely that it would be placed in culture with other Asian carps including silver carp, a species with which the largescale silver carp can hybridize. Although the largescale silver carp is not known to hybridize with bighead carp, it is feasible because hybrids between silver and bighead carps are known.

Recovery of Disturbed Sites

Although there is no evidence that this species has been introduced or targeted for introduction into the U.S., its similarities with silver carp indicate that should it or its hybrids with silver carp be introduced, abilities to eradicate, manage or control spread to new locations would likely be low. Therefore, there would be little likelihood for rehabilitation or recovery of ecosystems disturbed by this species or its hybrids.

Potential Pathogens

The potential for largescale silver carp or largescale silver x silver carp hybrids to infect native fishes with pathogens is largely unknown. Should such transfers prove viable, ability and effectiveness to control the spread to native fishes would be low.

Potential Ecological Benefits for Introduction

There are no potential ecological benefits for introduction of largescale silver carp or its hybrids.

Conclusion

Because largescale silver carp are likely to escape or be released into the wild if imported to the United States; are likely to survive, become established and spread if escaped or released; are likely to compete with native species for food and habitat; have been shown to hybridize with silver carp, a nonnative species already established in the United States; hybrids with silver carp may display jumping behavior that could injure humans; and because it would be difficult to prevent, eradicate, reduce large populations, control spread to new locations or recover ecosystems disturbed by the species, the Service finds largescale silver carp to be injurious to the interests of human beings and the wildlife and wildlife resources of the United States.

Required Determinations

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule contains information collection activity for special use permits. The Fish and Wildlife Service has approval from the Office of Management and Budget (OMB) to collect information under OMB control number 1018–0093. This approval expires June 30, 2007. The Service may not conduct or sponsor, and a person is not required to respond to, a collection

of information unless it displays a currently valid OMB control number.

Regulatory Planning and Review

(a) In accordance with the criteria in Executive Order 12866, OMB has designated this rule as a significant regulatory action.

This rule would not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government.

Costs Incurred

Silver Carp

We expect this proposed rule to have minimal costs. Silver carp are not cultured in the United States, nor do we believe that they are imported or exported. Currently, there are some commercial fisheries for silver carp in the Mississippi, Missouri, and Illinois rivers. Usually, commercial fishermen are catching silver carp as bycatch, which can account for up to 50 percent of the catch. Silver carp are not favorable because of their jumping habits and because they are less desirable by the consumer. In Missouri, many of the fishermen do not primarily target Asian carp (bighead and silver carp) because the price received is low ($0.10–$0.15 per pound). Instead, they fish for bighead and silver carp when other species or opportunities are unavailable. Many fishermen do not distinguish between bighead carp and silver carp.

Data for the silver carp fishery is limited. While Table 1 shows commercial fishery landings and value in Iowa and Illinois, we recognize that there may be landings in other States as well. Compared to the total commercial harvest and value, Asian carp represented 11 percent of landings and 6 percent of value in 2003. Because Illinois does not distinguish between bighead carp and silver carp in its annual report, we are unable to determine the magnitude of silver carp landings for the entire area. For Iowa, silver carp represented less than 1 percent of total landings.

TABLE 1.—2003 COMMERCIAL FISHERY LANDINGS AND VALUE IN IOWA AND ILLINOIS

	Illinois[1]	Iowa[2 3]	Total
Total Commercial Harvest (lbs)	6,385,473	2,242,997	8,628,470
Asian Carp*	900,497	15,774	916,271
Silver Carp	.....	3,828	3,828
Total Commercial Value ($)	$1,334,467	$496,765	$1,831,232
Asian Carp*	$99,055	$1,735	$100,790
Silver Carp	.....	$421	$421

*Asian carp includes bighead carp and silver carp. The value for Asian carp and silver carp in Iowa is based on the average $0.11/lb received, which is the same as Illinois.

[1] Illinois Department of Natural Resources. 2005. 2003 Commercial Catch Report. Brighton, Illinois.

[2] Personal communication, Gene Jones, Iowa Department of Natural Resources.

[3] Iowa Department of Natural Resources. 2003. Fisheries Management Section 2003 Completion Reports. Des Moines, Iowa.

The majority of the silver carp catch is sold as round weight. In Illinois, fishermen can sell silver carp as long as they are not transported live once the fish are taken off the water. No impacts are expected to this market because silver carp are not delivered live to the processor.

The market for live silver carp is unknown. Two live silver carp have been seen for sale in Toronto markets; it is unknown if live silver carp are being sold in United States markets. It is possible that silver carp are inadvertently shipped along with live bighead carp. However, most live haulers will not haul live silver carp because the fishes do not transport well. Furthermore, the consumer prefers bighead carp to silver carp. Because only sales of live silver carp would be regulated by this proposed rulemaking, we do not expect any impacts to commercial fishermen unless they are transporting live silver carp across State lines for processing. While the exact impact is unknown, we expect it to be minimal.

Largescale Silver Carp

There is no known use for largescale silver carp in the United States or import/export of the species into or from the United States. We do not know of any future plans to use largescale silver carp in the United States. Therefore, we do not expect the proposed rule to add largescale silver carp to the list of injurious wildlife to have any costs.

Benefits Accrued

Silver Carp

Within several waters of the Midwest, silver carp comprise a large percentage of the commercial catch as bycatch (non-target species). This may be negatively impacting revenue for commercial fishermen because silver carp are not as valuable as the native species that are targeted. It is possible that silver carp populations would not become established in new watersheds (Columbia Basin, Chesapeake Basin, and Sacramento-San Joaquin Delta) with similar attributes as the Mississippi River Basin as a result of this rulemaking. Silver carp are likely to compete with native fish for food, causing declines in native fishes in the United States, particularly those that rely heavily on plankton as a food resource.

With this proposed rule, we expect to delay and greatly decrease the risk of the establishment of silver carp populations in other U.S. watersheds. Thus, this proposed rule would protect native fish and the recreational and commercial fisheries associated with native fish. In terms of recreational fisheries, benefits would accrue due to (1) consumer surplus generated from fishing native fish and (2) fishing-related expenditures such as food, lodging, and equipment. In terms of commercial fisheries, benefits would accrue due to the ex-vessel revenue from fishing native fish which are more valuable than silver carp. The timeline for when these benefits would accrue depends on the potential spread and impacts of silver carp. The extent of benefits to recreational and commercial fisheries is also unknown.

Largescale Silver Carp

There have been no reports that largescale silver carp are in the United States. However, native fish populations could decline if largescale silver carp were to establish populations in the United States. With this proposed rule, we expect to greatly reduce the risk of the introduction and establishment of largescale silver carp (or any hybrids) in U.S. watersheds. Thus, this proposed rule protects native fish and the recreational and commercial fisheries

associated with native fish. In terms of recreational fisheries, benefits would accrue due to the continued (1) consumer surplus generated from fishing native fish and (2) fishing-related expenditures such as food, lodging, and equipment. In terms of commercial fisheries, benefits would accrue due to the continued ex-vessel revenue from fishing native fish. The extent of benefits to recreational and commercial fisheries is also unknown because it depends on the introduction and subsequent establishment of largescale silver carp populations in the United States.

(b) This proposed rule will not create inconsistencies with other Federal agencies' actions. This rule pertains only to regulations promulgated by the U.S. Fish and Wildlife Service under the Lacey Act. No other agencies are involved in these regulations.

(c) This proposed rule would not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This proposed rule does not affect entitlement programs. This rule is aimed at regulating the importation and movement of nonindigenous species that have the potential to cause significant economic and other impacts on natural resources that are the trust responsibility of the Federal Government.

(d) OMB has determined that this proposed rule raises novel legal or policy issues.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever a Federal agency publishes a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions) (5 U.S.C. 601 et seq.). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

This proposed rulemaking may impact a small number of fishermen selling live silver carp. The number of fishermen targeting silver carp is unknown. Because the market for live silver market is also unknown, we are unable to estimate the degree of impact of this rulemaking. We expect this proposed rulemaking to have a minimal effect on commercial fishermen selling live silver carp because many live haulers do not transport live silver carp. We do not expect this rulemaking to affect aquaculture because silver carp, largescale silver carp or any hybrids are not being cultured in the United States at this time.

Many small businesses within the retail trade industry (such as hotels, gas stations, taxidermy shops, bait and tackle shops, etc.) may benefit from continued recreational fishing without impacts from silver carp, largescale silver carp, or any hybrids. Furthermore, small businesses associated with commercial fishing (fishermen, wholesalers, and retailers) would also benefit from continued commercial fishing without impacts from silver carp, largescale silver carp, or any hybrids. We do not know the extent to which these small businesses would continue to benefit. However, we expect this benefit to be distributed across various watersheds, and so we do not expect that the rule will have a significant economic effect (benefit) on a substantial number of small entities in any region or nationally.

Therefore, we certify that this rule would not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). An initial/final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. No individual small industry within the United States will be significantly affected if live silver carp or largescale silver carp importation and interstate transportation are prohibited.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. *This rule*:

(a) Does not have an annual effect on the economy of $100 million or more. Silver carp is in limited commercial trade in the United States and primarily as fillets; the largescale silver carp is not known to be imported or present in the United States. Silver carp are likely to devastate many native fishery resources if it continues to spread in the United States. The largescale silver carp could devastate many native fishery resources if it is introduced to U.S. waterways. This rulemaking will protect the environment from the introduction and spread of non-native species and will indirectly work to sustain the economic benefits enjoyed by numerous small establishments connected with recreational and commercial fishing.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule would not prohibit intrastate transport or any use of silver carp or largescale silver carp within State boundaries. Any regulations adhering to the use of silver carp or largescale silver carp within individual States will be the responsibility of each State. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule would not impose significant requirements or limitations on private property use.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule would not have substantial direct effects on States, in the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, we determine that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order. The rule has been reviewed to eliminate drafting errors and ambiguity, was written to minimize litigation, provides a clear legal standard for affected conduct rather than a general standard, and promotes simplification and burden reduction.

National Environmental Policy Act

We have reviewed this rule in accordance with the criteria of the National Environmental Policy Act and the Departmental Manual in 516 DM. This action is being taken to protect the natural resources of the United States. Draft environmental assessments have been prepared for each species and are available for review by written request (see **ADDRESSES** section) or at our Web page at *http://contaminants.fws.gov/Issues/InvasiveSpecies.cfm.*

Adding silver carp and largescale silver carp to the list of injurious wildlife is intended to prevent their further introduction and establishment into natural waters of the United States in order to protect native fishes, the survival and welfare of wildlife and wildlife resources and the health and welfare of humans. Not listing silver carp as injurious may allow for an expansion of their use to States where they are not already found, thus increasing the risk of their escape and establishment in new areas due to accidental release and, perhaps, intentional release, which would likely threaten native fish, wildlife, and humans. Silver carp are established throughout much of the Mississippi River Basin. Releases of silver carp into natural waters of the United States are likely to occur again and the species is likely to become established in additional U.S. waterways, threatening native fish populations, wildlife, and wildlife resources dependent on phytoplankton, zooplankton, bacteria, and detritus, and impacting human health.

Largescale silver carp are not known to be in the United States, but if introduced to natural waters, they would likely impact the welfare and survival of native fish and wildlife, as well as the health and welfare of humans. In addition, largescale silver carp are visually similar to silver carp and can readily hybridize with silver carp, so they would be difficult to distinguish from silver carp.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. This rule involves the importation and interstate movement of all forms of live silver carp, largescale silver carp, gametes, eggs, and hybrids. We are unaware of trade in these species by Tribes.

Effects on Energy

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in this rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any written comments about how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail comments to *Exsec@ios.doi.gov.*

References Cited

A complete list of all references used in this rulemaking is available upon request from the Branch of Invasive Species (see the **FOR FURTHER INFORMATION CONTACT** section).

Authority

The Service is issuing this proposed rule under the authority of the Lacey Act (18 U.S.C. 42).

List of Subjects in 50 CFR Part 16

Fish, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons discussed in the preamble, the U.S. Fish and Wildlife Service proposes to amend part 16, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 16—[AMENDED]

1. The authority citation for part 16 continues to read as follows:

Authority: 18 U.S.C. 42.

2. Amend § 16.13 as follows:

a. By removing the word ''and'' at the end of paragraph (a)(2)(iii);

b. By removing the period at the end of paragraph (a)(2)(iv)(BB) and adding in its place ''; and''; and

c. By adding a new paragraph (a)(2)(v) to read as set forth below.

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

(a) * * *

(2) * * *

(v) Live fish, gametes, viable eggs, or hybrids of the species silver carp, *Hypophthalmichthys molitrix,* or largescale silver carp, *Hypophthalmichthys harmandi.*

* * * * *

Dated: July 14, 2006.

Matt Hogan,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–7416 Filed 9–1–06; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 71, No. 171
Tuesday, September 5, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 30, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Permit for the Movement of Restricted Animals.

OMB Control Number: 0579–0051.

Summary of Collection: Title 21, U.S.C. authorizes sections 111, 114, 114a, 114–1, 115, 120, 121, 125, 126, 134a, 134c, 134f, and 134g. These authorities permit the Secretary to prevent, control and eliminate domestic diseases such as tuberculosis and brucellosis, as well as to take actions to prevent and to manage exotic animal diseases such as hog cholera, foot-and-mouth disease, and other foreign diseases. Disease prevention is the most effective method of maintaining a healthy animal population and for enhancing the Animal and Plant Health Inspection Service (APHIS) ability to compete in the world market of animals and animal product trade. When farm animals become sick or have been exposed to a disease, it is important that they be removed promptly from their farm. If an animal must be transported across state lines, the owner will complete a ''Permit for the Movement of Restricted Animals,'' VS Form 1–27.

Need and Use of the Information: APHIS will collect the owner's name, address, the animals' point of origin and destination, the number of animals being moved, the purpose of the movement, and various pieces of animal identification data so that each animal in the shipment can be identified. Meat inspector report the slaughter of the animals to veterinary services also uses VS Form 1–27. Without the information, APHIS would be unable to effectively monitor and control the movement of sick animals, a situation that could seriously compromise the health of the U.S. livestock population.

Description of Respondents: Business or other for-profit.

Number of Respondents: 4,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 996.

Animal and Plant Health Inspection Service

Title: Tuberculosis Testing for Imported Cattle.

OMB Control Number: 0579–0224.

Summary of Collection: Under the authority of Title 21, U.S.C., the Secretary of Agriculture is permitted to prevent, control and eliminate domestic diseases such as tuberculosis, as well as to take actions to prevent and to manage exotic diseases such as foot-and-mouth, rinderpest, and other foreign diseases. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the ability of U.S. producers to compete in the global market of animal and animal product trade. The Animal and Plant Health Inspection Service (APHIS) will collect information using form VS 17–129, ''Application for Import or In Transit Permit.''

Need and Use of the Information: APHIS will collect information from the permit application regarding the type, number, and identification of the animals to be exported to the United States, as well as information concerning the origin, intended date and location of arrival, routes of travel, and destination of the animals. APHIS will also collect information that certified that the herd in which the cattle was born and raised has tested TB-negative to a whole herd test. Failure to collect this information would make it impossible for APHIS to effectively evaluate the TB risks associated with cattle importation from Mexico, thereby increasing the likelihood that healthy cattle and bison throughout the United States will be exposed to tuberculosis.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 100.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 15,000.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–14645 Filed 9–1–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Advisory Committee (DPAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Deschutes Provincial Advisory Committee will meet for a field trip on September 15, 2006 starting at 8 a.m. at the Ochoco National Forest

Headquarters, 3160 NE. 3rd Street, Prineville, Oregon. Topics for discussion include a PAC business meeting at the office until 10:30 a.m. The field trip will be from 10:30 a.m. until 5 p.m. and will visit the Maxwell Fire to discuss Area Emergency Rehabilitation and potential opportunities for the fire salvage activities. Also, if time allows, members will visit McKay Creek to discuss motorized access, dispersed camping, and riparian resources. A Public Forum will be available from 12:30 p.m. till 13:00 p.m. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Chris Mickle, Province Liaison, Deschutes NF, Crescent RD, P.O. Box 208, Crescent, OR 97754, phone (541) 433–3216.

Cecilia R. Seesholtz,

Deputy Forest Supervisor.

[FR Doc. 06–7401 Filed 9–1–06; 8:45am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on October 3, 2006 at the U.S. Forest Service Office, 35 College Drive, South Lake Tahoe, CA 96150. This Committee, established by the Secretary of Agriculture on December 15, 1998 (64 FR 2876), is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held October 3, 2006, beginning at 9 a.m. and ending at 4 p.m.

ADDRESSES: The meeting will be held at the U.S. Forest Service Office, 35 College Drive, South Lake Tahoe, CA 96150.

FOR FURTHER INFORMATION CONTACT: Arla Hains, Lake Tahoe Basin Management Unit, Forest Service, 35 College Drive, South Lake Tahoe, CA 96150, (530) 543–2773.

SUPPLEMENTARY INFORMATION: Items to be covered on the agenda include: (1) New Member Orientation; (2) the Southern Nevada Public Land Management Act; and (3) Public Comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend at the above address. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: August 29, 2006.

Terri Marceron,

Forest Supervisor.

[FR Doc. 06–7404 Filed 9–1–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will conduct a business meeting, which is open to the public.

DATES: Wednesday, September 20, 2006, beginning at 10:30 a.m.

ADDRESSES: Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho.

SUPPLEMENTARY INFORMATION: Agenda topics will include review and approval of project proposals, and is an open public forum.

FOR FURTHER INFORMATION CONTACT: Doug Gochnour, Designated Federal Officer, at 208–392–6681 or e-mail *dgochnour@fs.fed.us.*

Dated: August 25, 2006.

Richard A. Smith,

Forest Supervisor, Boise National Forest.

[FR Doc. 06–7407 Filed 9–1–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

(A–427–818)

Low Enriched Uranium from France: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 7, 2006, the Department of Commerce (the Department) published the preliminary results of its third administrative review of the antidumping duty order on low enriched uranium (LEU) from France. The review covers one producer of the subject merchandise. The period of review (POR) is February 1, 2004 through January 31, 2005. Based on our analysis of the comments received, we have made changes to the preliminary results. For the final dumping margins see the ''Final Results of Review'' section below.

EFFECTIVE DATE: September 5, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3148 or (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2006, the Department published in the **Federal Register** the preliminary results of the third administrative review of the antidumping duty order on LEU from France. *See Low Enriched Uranium From France: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 11386 (March 7, 2006) (*Preliminary Results*).

Since the *Preliminary Results* the following events have occurred. As noted in the *Preliminary Results*, in accordance with section 773(f)(3) of the Tariff Act of 1930, as amended (the Act), and section 351.407(b) of our regulations, we decided to conduct an analysis to determine whether the respondent's purchases of electricity from its affiliated supplier, Électricité de France (EdF), were made at prices below the cost of production (COP) during the POR. *See Memorandum to Barbara E. Tillman from Mark Hoadley, Petitioners' Allegation of Purchases of a Major Input From Electricité de France (EdF), an Affiliated Party, at Prices Below the Affiliated Party's Cost of Production,*

dated January 25, 2006. Subsequent to respondent's initial response concerning this major input, the Department issued a supplemental questionnaire on March 16, 2006, seeking clarification on EdF's COP information. A timely response was received on March 30, 2006.

On May 1, 2006, we received case briefs from the sole respondent, Eurodif S.A., AREVA NC (formerly Compagnie Générale Des Matiéres Nucléaires, S.A.) and AREVA NC Inc. (formerly COGEMA, Inc.) (collectively, Eurodif/AREVA, the respondent), and the petitioner, the United States Enrichment Corporation and USEC Inc. (collectively, USEC). Eurodif/AREVA and USEC submitted their rebuttal briefs on May 9, 2006. The petitioner requested a hearing on May 2, 2006, but withdrew its request on May 9, 2006.

On July 7, 2006, the Department published in the **Federal Register** a notice extending the deadline for the final results from July 5, 2006 to August 21, 2006. *See Low Enriched Uranium from France: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review*, 71 FR 38611 (July 7, 2006).

Scope of the Order

The product covered by this order is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U_{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U_{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this order. For purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U_{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U_{235} concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end-user.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Analysis of Comments Received

The issues raised in all case and rebuttal briefs by parties to this administrative review are addressed in the *Issues and Decision Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration (Decision Memorandum*), which is hereby adopted by this notice. A list of the issues addressed in the *Decision Memorandum* is appended to this notice. The *Decision Memorandum* is on file in the Central Records Unit (CRU), and can be accessed directly on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made adjustments to our margin calculations. The adjustments are discussed in detail in the *Decision Memorandum*.

Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists for the period February 1, 2004 through January 31, 2005:

Manufacturer/Exporter	Margin (percent)
Eurodif/AREVA	14.60

Assessment

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). The Department calculated importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. The Department will not issue liquidation instructions for any entries of Eurodif merchandise until such time as the July 1, 2002 injunction issued by the Court of International Trade is lifted.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by the company included in these final results of review for which the reviewed company did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all others rate if there is no rate for the intermediate company involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposits

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of LEU from France entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a) of the Act: (1) for Eurodif/AREVA, the cash deposit rate will be the rate listed above; (2) for merchandise exported by producers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company–specific rate published in the most recent final results in which that producer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the most recent final results in which that producer participated; and (4) if neither the exporter nor the producer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 19.95 percent, the ''all others'' rate established in the investigation. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Low Enriched Uranium from*

France, 67 FR 6680 (February 13, 2002). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred, and in the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice is the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 21, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I.—Issues in Decision Memorandum

Comment 1: Cost of Electricity
Comment 2: Calculation of Electricity Cost
Comment 3: Date of Sale for Certain Deliveries
Comment 4: Inclusion of All POR Deliveries in Margin Calculation
Comment 5: Home Market Indirect Selling Expense (ISE) Calculation
Comment 6: Application of the ISE Ratio
Comment 7: Use of Facts Available for R&D Costs
Comment 8: Calculation of CEP Profit Ratio
Comment 9: Feedstock Values Used in Gross Unit Price
Comment 10: Rescission of Review and Liquidation of Entries without Assessment of Duties
Comment 11: Correction to Net U.S. Price

[FR Doc. E6–14659 Filed 9–1–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–201–822)

Stainless Steel Sheet and Strip in Coils from Mexico: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 5, 2006.

FOR FURTHER INFORMATION CONTACT: Maryanne Burke or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5604 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION: On June 21, 2006, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Mexico for the period July 1, 2004, through June 30, 2005. *See Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 35618 (June 21, 2006). The current deadline for the final results of this review is October 19, 2006.

Extension of Time Limits for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), requires the Department to issue the final results of an administrative review within 120 days after the date on which the preliminary results were published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Tariff Act allows the Department to extend the time limit for the final results to 180 days from the date of publication of the preliminary results.

The Department finds that it is not practicable to complete this review within the original time frame due to a number of significant case issues, including the calculation of parent company interest expenses and general and administrative expenses. Furthermore, additional time is necessary for the Department to analyze certain adjustments made to U.S. price and to evaluate the commercial transactions between Mexinox and affiliated parties. Consequently, and in accordance with section 751(a)(3)(A) of the Tariff Act and 19 CFR 351.213(h)(2), the Department is extending the time limit for completion of the final results of this administrative review until no later than December 18, 2006, which is 180 days from the date of publication of the preliminary results. This notice is published in accordance with section 751(a)(3)(A) of the Tariff Act.

Dated: August 29, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–14653 Filed 9–1–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: Fastener Quality Act Requirements.

Form Number(s): None.

OMB Approval Number: 0693–0015.

Type of Review: Regular submission.

Burden Hours: 22.

Number of Respondents: 2.

Average Hours Per Response: 1.5 hours per accreditation body and 20 hours per petitioner.

Needs and Uses: The National Institute of Standards and Technology (NIST), a component of the Technology Administration reporting to the Under Secretary for Technology, under the Fastener Quality Act (the Act) (Pub. L. 101–592 amended by Pub. L. 104–113, Pub. L. 105–234 and Pub. L. 106–34) is required to accept an affirmation from laboratory accreditation bodies and quality system registrar accreditation bodies that they meet International Standardization Organization/International Electrotechnical Commission (ISO/IEC) 17011. An organization having made such an affirmation to NIST may accredit either fastener testing laboratories or quality system registrars for fastener manufacturers in accordance with the applicable provisions of the Fastener Quality Act. This information allows NIST to compile a list of accreditation

bodies able to provide accreditations meeting all the requirements of the Act and of the procedures, 15 CFR Part 280.

Section 10 of the Act requires NIST to accept petitions from persons publishing a document setting forth guidance or requirements providing equal or greater rigor and reliability compared to ISO/IEC Guide 17025, ISO/IEC 17011 or ISO/IEC Guide 62. Petitions to consider a document as an alternative to one of the ISO/IEC documents may be accepted by the Director of NIST for use provided the document provides equal or greater rigor and reliability as compared to the ISO/IEC document.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Jasmeet Seehra, (202) 395–3123.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jasmeet Seehra, OMB Desk Officer, FAX number (202) 395–5806 or *Jasmeet_K._Seehra@omb.eop.gov*.

Dated: August 29, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 06–7390 Filed 9–1–06; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Proposed Information Collection; Comment Request; National Voluntary Laboratory Accreditation Program (NVLAP) Information Collection System

ACTION: Notice.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 6, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to the attention of Vanda R. White, National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2140, Gaithersburg, MD 20899–2140; phone: (301) 975–3592; e-mail: *vanda.white@nist.gov*.

SUPPLEMENTARY INFORMATION

I. Abstract

This information is collected from all testing or calibration laboratories that apply for NVLAP accreditation. The applicants provide the minimum information necessary for NVLAP to evaluate the competency of laboratories to carry out specific tests or calibrations or types of tests or calibrations. The application provides such information as name, address, phone and fax numbers, and contact person, and selects the test methods or parameters for which it is seeking accreditation. The application must be signed by the Authorized Representative of the laboratory, who commits the laboratory to comply with NVLAP's accreditation requirements. The collection is mandated by 15 CFR 285.

II. Method of Collection

An application for accreditation is provided to each new or renewal applicant laboratory and can be submitted to either electronically or by mail.

III. Data

OMB Number: 0693–0003.

Form Numbers: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; not-for-profit institutions; and Federal, State or local government.

Estimated Number of Respondents: 850.

Estimated Time Per Response: 3 hours to complete an application form; and 15 minutes for renewal verification on a preprinted form.

Estimated Total Annual Respondent Burden Hours: 2,338.

Estimated Total Annual Respondent Cost Burden: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 29, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 06–7391 Filed 9–1–06; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082906F]

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a working group meeting

SUMMARY: The Caribbean Fishery Management Council's St. Croix exclusive economic zone (EEZ) Working Group will hold a meeting.

DATES: The St. Croix EEZ Working Group meeting will be held on October 10, 2006, from 6 p.m. to 10 p.m., approximately.

ADDRESSES: The meeting will be held at the Caravelle Hotel, 44A Queen Cross St., Christiansted, St. Croix, USVI 00820

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The St. Croix EEZ Working Group will meet to discuss the items contained in the following agenda:

1. Adoption of Agenda
2. Sustainable Fisheries Act (SFA) Current Regulations EEZ off St. Croix—Graciela Garcia-Moliner
3. USVI Current Fishery Regulations—William Tobias
4. Buck Island Reef National Monument Presentation—Joel Tutein
5. Other Business

Special Accommodations

The meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: August 30, 2006.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–14614 Filed 9–01–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082906E]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Monkfish Oversight Committee in September, 2006 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Monday, September 18, 2006, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn, One Thurber Street, Warwick, RI 02886; telephone: (401) 734–9600; fax: (401) 734–9700.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review the Monkfish Plan Development Team's (PDT) analysis of target total allowable catch (TAC) alternatives and associated trip limits and days-at-sea (DAS) alternatives for consideration in Framework Adjustment 4. The Committee may propose eliminating some alternatives but will withhold making final recommendations until the next meeting, which will be held following an Advisory Panel meeting and prior to the November 6–8 New England Council meeting. The Committee will also review and complete development of other alternatives proposed for consideration in Framework Adjustment 4, including, but not limited to: eliminating the directed fishery; requiring vessels to install vessel monitoring systems (VMS) and to use the VMS to report daily catch information; backstop provisions to ensure that management measures achieve the target TACs on an ongoing basis; modification or elimination of the DAS carryover provision; and modification of the boundary of the North Carolina/Virginia area monkfish fishery.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 30, 2006.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–14613 Filed 9–1–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Announcement of South Slough National Estuarine Research Reserve Revised Management Plan

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of approval and availability of the final revised management plan for the South Slough National Estuarine Research Reserve.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce has approved the revised management plan for the South Slough National Estuarine Research Reserve (Reserve).

The Reserve was designated in 1974 pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461 and has been operating under the management plan revised in 1994. Pursuant to 15 CFR Section 921.33(c), a state must revise their management plan every five years. The submission of this plan fulfills this requirement for the period from 2006–2011 and sets a course for successful implementation of the goals and objectives of the reserve.

The mission of the South Slough reserve management plan is to improve the understanding and stewardship of Pacific Northwest estuaries and coastal watersheds through site-based estuarine research, stewardship and education. The management plan identifies nine priority management issues that are addressed through reserve programs. These priority issues are (1) invasive species, (2) water pollution, (3) threatened and endangered species, (4) commercial oyster cultivation, (5) vegetation and sediment management, (6) forest management and fire, (7) harvests of secondary forest products, (8) disaster prevention and response, and (9) archeological artifacts and historic structures. South Slough reserve's management plan addresses these issues with specific programs for resource management and protection, research and monitoring, education and training, public access and visitor use, program administration, and partnerships and regional coordination.

The plan identifies management goals, priority resource management issues or threats that these goals must address, and specific strategies to accomplish these goals. The resource management and protection program addresses issues such as developing a systematic process to assess ecological health of the reserve, implementing resource management strategies, developing land use policies on the reserve, implementing the reserve Cooperative Plan for Watershed Conservation, assisting with the revision of the trail master plan, enhancing the application of GIS to stewardship priorities, improving restoration monitoring capacity, and enhancing community involvement in coastal stewardship.

The research and monitoring program supports research focused on estuarine ecology and assessments of functional biotic diversity, investigation of links between land-margin ecosystem elements, and evaluation of the effects of human disturbance within estuaries. Staff, graduate students, and visiting researchers conduct monitoring and research within the watersheds and boundaries of the reserve and use GIS to map critical habitats and hydrology and hydrodynamic processes.

The education and training program at the reserve targets audiences of all ages and backgrounds for traditional, experiential, training and outreach opportunities. The education program is also upgrading and expanding the Reserve's exhibitry to better interpret scientific data collected by the research program, enhancing methods to engage middle and high school audiences, evaluate program offerings, implement a school-to-work educational experience, update information for visitors, and enhance program participation.

The coastal Training Program will focus on identifying the needs of coastal decision makers (CDM's), conducting training workshops for CDM's, testing and adapting an Inquiry-Based Information Services model to identify information gaps and develop demonstration projects, conducting evaluations to measure the effectiveness of training and outreach programs, and developing an internet-based training and information program for CDM's.

The public access and facilities priorities at the reserve includes assessing opportunities to enhance access to the southern end of the reserve, establishing a visitor center/office in Charleston, revising the facilities master plan, establishing a facilities maintenance and replacement schedule, and reducing operations costs through innovative energy oriented technologies. Visitor use policies are designed to provide for compatible use and protection of valuable natural resources.

The administration program ensures the staffing and budget is adequate to carry out the goals and objectives of the plan. Situated within its parent agency, Oregon Department of State Lands, the administrative staff develops stable funding and grant match opportunities and manages grants and cooperative agreements effectively and efficiently. Priorities include developing a volunteer program, a communication plan, a plan to enhance information and communication technology, evaluating the need to revise the reserve's Administrative Rules, and developing facility use policies.

FOR FURTHER INFORMATION CONTACT: Nina Garfield at (301) 563–1171 or Kate Barba, Acting Chief, Estuarine Reserves Division at (301) 563–1182 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

Dated: August 29, 2005.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E6–14603 Filed 9–1–06; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; Information collection 3038–0031, Procurement Contracts.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before October 5, 2006.

FOR FURTHER INFORMATION CONTACT: Steven A. Grossman at CFTC, (202) 418–5192; fax: (202) 418–5529; e-mail: *sgrossman@cftc.gov* and refer to OMB Control No. 3038–0031.

SUPPLEMENTARY INFORMATION:

Title: Procurement Contracts, OMB Control No. 3038–0031. This is a request for extension of a currently approved information collection.

Abstract: This information collection consists of procurement activities relating to solicitations, amendment to solicitations, requests for quotations, construction contracts, awards of contracts, performance bonds, and payment information for individuals (vendors) or contractors engaged in providing supplies or services.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on June 26, 2006 (71 FR 36328).

Burden statement: The respondent burden for this collection is estimated to average 2 hours per response. This estimate includes the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 182.

Estimated number of responses: 182.

Estimated total annual burden on respondents: 364 hours.

Frequency of collection: annually.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0031 in any correspondence.

Steven A. Grossman, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581 and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for CFTC, 725 17th Street, Washington, DC 20503.

Issued in Washington, DC on August 29, 2006.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–7408 Filed 9–1–06; 8:45am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Mr. David Premo, at (202) 606–6717, (*dpremo@cns.gov*); (TTY/TDD) at (202) 606–5256 between the hours of 9 a.m. and 4 p.m. Eastern Daylight Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**.

(1) *By fax to:* (202) 395–6974, *Attention:* Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and

(2) *Electronically by e-mail to: Katherine_T._Astrich@omb.eop.gov.*

The initial 60-day **Federal Register** Notice for the voluntary online registration of Martin Luther King, Jr., projects was published on June 20, 2006. This comment period ended on August 19, 2006; no comments were received.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Regular.

Agency: Corporation for National and Community Service.

Title: Voluntary Online Registration of Martin Luther King, Jr., Day of Service Projects.

OMB Number: None.

Agency Number: None.

Affected Public: Organizations operating Martin Luther King, Jr., Day of Service projects.

Total Respondents: 1,000.

Frequency: Annual.

Average Time per Response: 20 minutes.

Estimated Total Burden Hours: 333 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 25, 2006.

Sandy Scott,

Director, Office of Public Affairs.

[FR Doc. E6–14611 Filed 9–1–06; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2006–OS–0193]

Defense Intelligence Agency; Privacy Act of 1974; System of Records

AGENCY: Defense Intelligence Agency.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Intelligence Agency is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on October 5, 2006 unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd., Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 22, 2006, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 29, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

LDIA 06–0004

SYSTEM NAME:

Recall Roster.

SYSTEM LOCATION:

DIA organizational elements and offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees, military personnel, and contractors employed, assigned, or detailed to the Defense Intelligence Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, organizational and home addresses, work/home/cellular telephone/pager numbers, home e-mail account, emergency contact information, contact listing files, organizational telephone directories, and listing of office personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations, DoD Directive 3020.26 Continuity of Operations Policy and Planning and DIA Regulations 50–19 Terrorism Emergency Action Procedures. DIA Chief of Staff Memo, U–1950/CS Emergency Notification System.

PURPOSE(S):

To enable the DIA to recall personnel to their place of duty, for use in emergency notifications, and to perform relevant functions/requirements/actions

consistent with managerial functions during an emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DIA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic.

RETRIEVABILITY:

By last name of the individual.

SAFEGUARDS:

Records are electronically stored on local hard drives on classified work stations and in paper form at each location. Paper copies are marked with appropriate handling instructions and will be kept in locked cabinets/drawers when not in use. Removal of paper copies outside DoD control is authorized but must be safeguarded when not in use.

RETENTION AND DISPOSAL:

Temporary–Destroy when the employee/military member/contractor departs or is reassigned from DIA.

SYSTEM MANAGER(S) AND ADDRESS:

DIA Privacy Official, Defense Intelligence Agency (DAN–1C), 200 MacDill Blvd, Washington, DC 20340–5100.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the DIA Privacy Office (DAN–1C), Defense Intelligence Agency, 200 MacDill Blvd., Washington DC 20340–5100.

Individuals should provide their full name, current address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the DIA Privacy Official, Defense Intelligence Agency (DAN–1C), 200 MacDill Blvd., Washington, DC 20340–5100.

Individuals should provide their full name, current address, and telephone number.

CONTESTING RECORD PROCEDURES:

DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Regulation 12–12 ''Defense Intelligence Agency Privacy Program''; 32 CFR part 319—Defense Intelligence Agency Privacy Program; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Subject individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E6–14626 Filed 9–1–06; 8:45 am]

BILLING CODE 5001–06–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of Public Meeting.

DATE AND TIME: Thursday, September 21, 2006, 9:30 a.m.–3:30 p.m. (CDT).

PLACE: University of Missouri—St. Louis, Millennium Center, One University Boulevard, St. Louis, MO 63121–4400, (314) 516–5000.

AGENDA: *The Commission will receive presentations on the following topics:* voter information access portals and military and overseas voting. The Commission will consider other administrative matters.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 06–7448 Filed 8–31–06; 12:55 pm]

BILLING CODE 6820–KF–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8216–8]

Clean Water Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intended Transfer of Confidential Business Information to Contractor.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential business information (CBI) collected from airport deicing operations to SciMetrika. Transfer of the information will allow the contractor to support EPA in the planning, development, and review of effluent limitations guidelines and standards for the airport deicing point source category. The information being transferred was or will be collected from airports and airlines under the authority of section 308 of the Clean Water Act (CWA). Interested persons may submit comments on this intended transfer of information to the address noted below.

DATES: Comments on the transfer of data are due September 11, 2006.

ADDRESSES: Comments may be sent to Mr. M. Ahmar Siddiqui, Document Control Officer, Engineering and Analysis Division (4303T), Room 6231S EPA West, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. M. Ahmar Siddiqui, Document Control Officer, at (202) 566–1044, or via e-mail at *siddiqui.ahmar@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has transferred CBI to various contractors and subcontractors over the history of the effluent guidelines program. EPA determined that this transfer was necessary to enable the contractors and subcontractors to perform their work in supporting EPA in planning, developing, and reviewing effluent guidelines and standards for certain industries.

Today, EPA is giving notice that it has entered into a contract with SciMetrika, contract number EP–C–06–075, located in Research Triangle Park, North Carolina. The purpose of this contract is to secure statistical analysis support for EPA in its development, review, implementation, and defense of water-related initiatives for the airport deicing point source category.

All EPA contractor, subcontractor, and consultant personnel are bound by the requirements and sanctions contained in their contracts with EPA and in EPA's confidentiality regulations found at 40 CFR Part 2, Subpart B. SciMetrika will adhere to EPA-approved security plans which describe procedures to protect CBI. SciMetrika will apply the procedures in these plans to CBI previously gathered by EPA and to CBI that may be gathered in the future for the airport deicing point source category. The security plans specify that contractor personnel are required to sign non-disclosure agreements and are briefed on appropriate security procedures before they are permitted

access to CBI. No person is automatically granted access to CBI: a need to know must exist.

The information that will be transferred to SciMetrika consists of information previously collected by EPA to support the development and review of effluent limitations guidelines and standards under the CWA for the airport deicing point source category.

EPA also intends to transfer to SciMetrika all information listed in this notice, of the type described above (including CBI) that may be collected in the future under the authority of section 308 of the CWA or voluntarily submitted (*e.g.*, in comments in response to a **Federal Register** notice), as is necessary to enable SciMetrika to carry out the work required by its contract to support EPA's development of effluent limitations guidelines and standards for the airport deicing point source category.

Dated: August 21, 2006.

Ephraim S. King,

Director, Office of Science and Technology.

[FR Doc. E6–14643 Filed 9–1–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2006–0384; FRL–8216–9]

Human Studies Review Board (HSRB); Notification of a Public Teleconference To Review Its Draft Report from the June 27–30, 2006 HSRB Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Human Studies Review Board (HSRB) announces a public teleconference meeting to discuss its draft HSRB report from the June 27–30, 2006 HSRB meeting.

DATES: The teleconference will be held on September 26, 2006, from 1–4 p.m. (Eastern Time).

Location: The meeting will take place via telephone only.

Meeting Access: For information on access or services for individuals with disabilities, please contact the DFO at least 10 business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT**, so that appropriate arrangements can be made.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral comments for the HSRB to consider during the advisory process. Additional information concerning submission of relevant written or oral comments is provided in Unit I.D. of this notice.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code to participate in the telephone conference, request a current draft copy of the Board's report or who wish further information may contact Maria Szilagyi, Designated Federal Officer (DFO), EPA, Office of the Science Advisor, (8105), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail at (202)564–8609 or via e-mail at *szilagyi.maria@epa.gov*. General information concerning the EPA HSRB can be on the EPA Web site at *http://www.epa.gov/osa/hsrb/*.

ADDRESSES: Submit your written comments, identified by Docket ID No. EPA–HQ–ORD–2006–0384, by one of the following methods: *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

E-mail: ORD.Docket@epa.gov.

Mail: ORD Docket, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Hand Delivery: EPA Docket Center (EPA/DC), Public Reading Room, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–ORD–2006–0384. Deliveries are only accepted from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2006–0384. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

I. Public Meeting

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who conduct or assess human studies on substances regulated by EPA or to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the ORD Docket, EPA/DC, Public Reading Room, Infoterra Room (Room Number 3334), 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is

(202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

The June 27–30, 2006 HSRB meeting draft report is now available. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the regulations.gov Web site and the HSRB Internet Home Page at *http://www.epa.gov/osa/hsrb/*. For questions on document availability or if you do not have access to the Internet, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. Provide specific examples to illustrate your concerns.

5. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this section. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–ORD–2006–0384 in the subject line on the first page of your request.

1. *Oral comments.* Requests to present oral comments will be accepted up to September 19, 2006. To the extent that time permits, interested persons who have not pre-registered may be permitted by the Chair of the HSRB to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to the HSRB is strongly advised to submit their request (preferably via e-mail) to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than noon, eastern time, September 19, 2006, in order to be included on the meeting agenda and to provide sufficient time for the HSRB Chair and HSRB DFO to review the meeting agenda to provide an appropriate public comment period. The request should identify the name of the individual making the presentation and the organization (if any) the individual will represent. Oral comments before the HSRB are limited to 5 minutes per individual or organization. Please note that this includes all individuals appearing either as part of, or on behalf of an organization. While it is our intent to hear a full range of oral comments on the science and ethics issues under discussion, it is not our intent to permit organizations to expand these time limitations by having numerous individuals sign up separately to speak on their behalf. If additional time is available, there may be flexibility in time for public comments.

2. *Written comments.* Although you may submit written comments at any time, for the HSRB to have the best opportunity to review and consider your comments as it deliberates on its report, you should submit your comments at least 5 business days prior to the beginning of this teleconference. If you submit comments after this date, those comments will be provided to the Board members, but you should recognize that the Board members may not have adequate time to consider those comments prior to making a decision. Thus, if you plan to submit written comments, the Agency strongly encourages you to submit such comments no later than noon, Eastern Time, September 19, 2006. You should submit your comments using the instructions in Unit 1.C. of this notice. In addition, the Agency also requests that person(s) submitting comments directly to the docket also provide a copy of their comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT**. There is no limit on the length of written comments for consideration by the HSRB.

E. Background

The EPA Human Studies Review Board will be reviewing its draft report from the June 27–30, 2006 HSRB meeting. Background on the June 27–30, 2006 HSRB meeting can be found at **Federal Register** 71 108, 32536 (June 6, 2006) and at the HSRB Web site *http://www.epa.gov/osa/hsrb/* Finally, the Board may discuss planning for future HSRB meetings.

Dated: August 30, 2006.

William H. Farland,

Acting EPA Science Advisor.

[FR Doc. E6–14644 Filed 9–1–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2006–0494; FRL–8075–3]

Lead-Based Paint Activities; State of Hawaii Lead-Based Paint Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; requests for comments and opportunity for public hearing.

SUMMARY: On November 17, 2005, EPA received an application from the State of Hawaii requesting authorization to administer a program in accordance with section 402 of the Toxic Substances Control Act (TSCA). Included in the application was a letter signed by Hawaii's Attorney General stating that the State's Lead-Based Paint Abatement Program is at least as protective of human health and the environment as the Federal program under TSCA section 402. Also included in the letter from the Attorney General of Hawaii is the certification that the laws and regulations of the State of Hawaii provide adequate legal authority to administer and enforce TSCA section 402. The application was followed by a transmittal letter of February 8, 2006, from the Governor of the State of Hawaii requesting program approval. Hawaii certifies that its program meets the requirements for approval of a State program under TSCA section 404 and that Hawaii has the legal authority and ability to implement the appropriate elements necessary to enforce the program. Therefore, pursuant to TSCA section 404, the program is deemed authorized as of the date of submission. If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the **Federal Register** and the Federal program will be established. This notice announces the receipt of Hawaii's application, provides a 45–day public comment period, and an opportunity to request a public hearing on the application.

DATES: Comments on the application must be received on or before October 20, 2006.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket identification (ID) numberEPA–HQ–OPPT–2006–0494, by one of the following methods:

- *Federal eRulemaking Portal*:*http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Fax*: (415) 947–3583.
- *Mail:* Nancy Oien, Regional Lead Coordinator, Environmental Protection

Agency, Region IX, CED-4, 75 Hawthorne St., San Francisco, CA 94105–3901.

• *Delivery*: Environmental Protection Agency, Region IX, CED-4, 75 Hawthorne St., San Francisco, CA 94105–3901.

Instructions: Direct your comments to Docket ID number EPA–HQ–OPPT–2006–0494. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at*http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going throughregulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of the comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at*http://www.epa.gov/epahome/dockets.htm.*

Comments, data, and requests for a public hearing may also be submitted electronically to: *oien.nancy@epa.gov*.

Docket: All documents in the docket are listed in thedocket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at*http://www.regulations.gov* or in hard copy at the EPA Region IX Library at 75 Hawthorne St., San Francisco, CA 94105. This docket facility is open from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket facility telephone number is (415) 947–4406.

FOR FURTHER INFORMATION CONTACT: Nancy Oien, Regional Lead Coordinator, Region IX, CED-4, 75 Hawthorne St., San Francisco, CA 94105–3901; telephone: (415) 972–3780; e-mail address: *oien.nancy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General

A. Does this Action Apply to Me?

This notice is directed to the public in general. This notice may, however, be of interest to firms and individuals engaged in lead-based paint activities in Hawaii. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by the notice. If you have any questions regarding the applicability of this notice to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency's Authority for Taking this Action?

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. The Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681–2692), titled ''Lead Exposure Reduction.''

Section 402 of TSCA (15 U.S.C. 2682) authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). These regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under TSCA section 404 (15 U.S.C. 2684), a State or Indian Tribe may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. EPA will review those applications within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA authorization.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA authorization by submitting a letter signed by the Governor or the Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized until such time as EPA disapproves the program application or withdraws the application.

Section 404(b) of TSCA provides that EPA may approve a program application only after providing notice and an opportunity for a public hearing on the application. Therefore, by this notice EPA is soliciting public comment on whether Hawaii's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If EPA finds that the program does not meet the requirements for authorization of a state program, EPA will disapprove the program application, at which time a notice will be issued in the **Federal Register** and the Federal program will be established in Hawaii.

II. State Program Description Summary

This summary is provided in accordance with 40 CFR 745.324(a)(4). The applicant has provided the following summary of their lead program. On September 19, 2005, Hawaii's Department of Health (HDH) adopted Title 11, Chapter 11-41, Hawaii Administrative Rules titled ''Lead-Based Paint Activities'' pursuant to Hawaii statutes in Chapters 91 and 92 and Hawaii's revised statute in section 321–11. These changes authorized Hawaii's Department of Health to adopt and enforce requirements equivalent to the requirements of 40 CFR part 745, subpart L, into Hawaii's Administrative Rules in accordance with Hawaii's Revised Statutes, Title 19, Chapter 342P.

Public hearings were held on April 22, 2004, Hilo, Island of Hawaii; April 23, 2004, Kailua Kona, Island of Hawaii; May 4, 2004, Lihue, Kona; May 6, 2004, Wailuku, Maui; and May 7, 2004, Honolulu, Oahu to consider comments on the proposed adoption of

administrative rule amendments and Hawaii's intent to seek EPA authorization of its lead-based paint program. Comments were accepted for 40 days after the published date of March 29, 2004. There were no oral comments given at the hearings, but two sets of written comments were received. The written comments were technical in nature and some changes were made to remain as protective as the Federal standards. These changes were reviewed by the State Attorney General who deemed that no additional public hearing was required. The Post Hearing Small Business Impact Statement was written and approved by the Small Business Regulatory Review Board pursuant to section 201M-3, Hawaii Revised Statutes and the Hawaii's Governor's Administrative Directive No. 99–02.

On September 19, 2005, the Governor of the State of Hawaii signed the final rule. The final rule became effective on October 3, 2005. The Hawaii Department of Health began implementing its program on October 3, 2005. Additional information, copies of the documents referenced above, and application forms for licensing and certification may be obtained by contacting: Tom Lileikis, Environmental Health Specialist, Hawaii Health Department, Noise, Radiation, and Indoor Air Quality Branch, 591 Ala Moana Blvd., #133, Honolulu, Hawaii 96813; telephone number: (808) 586–5800; e-mail address:*tlileiki@ehsdmail.health.state.hi.us.*

EPA determined that Hawaii's original application of November 17, 2005, was incomplete as the transmittal letter from the State Governor requesting program approval was missing. The State of Hawaii submitted the Governor's request on February 8, 2006, in accordance with 40 CFR 745.324(d), ''Program Certification,'' certifying that the State program meets the requirements contained in 40 CFR 745.324(e)(2)(i) and (e)(2)(ii). Therefore, as of November 17, 2005, the State of Hawaii is authorized to administer and enforce the lead-based paint program under TSCA section 402, until such time as the Administrator disapproves the application or withdraws the State's program authorization.

III. Federal Overfiling

Section 404(b) of TSCA (15 U.S.C. 2684(b)) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq*. as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this document in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: August 3, 2006.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. E6–14588 Filed 9–01–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0010; FRL–8088–3]

1,2-Ethylene Dichloride Tier I Program Review Testing; Notice of Availability and Solicitation of Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under section 4 of the Toxic Substances Control Act (TSCA), EPA issued a testing consent order that incorporated an enforceable consent agreement (ECA) for 1,2-ethylene dichloride (EDC). The companies subject to the ECA agreed to conduct toxicity testing, develop a computational dosimetry model for route-to-route extrapolations, and develop pharmacokinetics and mechanistic testing data that are intended to satisfy the toxicological data needs for EDC identified in a TSCA section 4 proposed test rule for a number of hazardous air pollutant chemicals. This notice announces that EPA is starting the program review component of the EDC ECA alternative testing program, and solicits comment on data received under the Tier I Program Review Testing segment of the EDC ECA. Comments are expected to inform EPA's decision on whether data and computational dosimetry model development completed by the test sponsors are sufficient to proceed with the Tier II Testing and computational dosimetry modeling for route-to-route extrapolations listed in the EDC ECA.

DATES: Comments must be received on or before October 5, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0010, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2003–0010. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2003–0010. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your

name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov*, or in hard copy at the OPPT Docket, EPA Docket Center (EPA/DC), EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Richard Leukroth or John Schaeffer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8157; e-mail address: *ccd.citb@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to those persons who are or may be required to conduct testing of chemical substances under TSCA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult either technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Technical and scientific considerations*. EPA invites interested parties to provide views on the test sponsors' Tier I Program Review Testing reports entitled: *1,2-Dichloroethane (EDC): Limited Pharmacokinetics and Metabolism Study in Fischer 344 Rats* and *Physiologically Based Pharmacokinetic Model Development and Simulations for Ethylene Dichloride (1,2-Dichloroethane) in Rats* (Refs. 1 and 2). These reports describe a computational dosimetry model for route-to-route extrapolation and development of pharmacokinetics and mechanistic data (PK/MECH data) that will support the use of this model for quantitative route-to-route extrapolations specific to endpoints listed under Tier II of the EDC ECA. The computational dosimetry model and PK/MECH data described in these reports, if deemed acceptable to EPA, will be applied to support the EDC ECA Tier II Testing and computational dosimetry model extrapolation reporting called for under Tier II of the EDC ECA. EPA is interested in comments on the PK/MECH data, the EDC computational dosimetry model for route-to-route extrapolation, and the utility of resulting derived computational data from the EDC computational dosimetry model that will be developed under Tier II of the EDC ECA.

2. *Submitting CBI*. Do not submit CBI to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information contained in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

3. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. As discussed in Unit I.B.1., the Agency asks you to respond to specific questions regarding the EDC ECA program review.

iii. Explain why you agree or disagree with the materials under consideration for the EDC ECA program review; provide a convincing argument for your views or offer alternative ways to improve the science.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggested alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Testing is EPA Requiring for EDC?

EPA proposed health effects testing under TSCA section 4(a) for a number of hazardous air pollutants (HAPs or HAP chemicals), including EDC, in the **Federal Register** of June 26, 1996 (Ref. 3), as amended (Refs. 4 and 5). The testing needs for EDC identified in the HAPs proposed rule, as amended, are acute toxicity, subchronic toxicity, developmental toxicity, reproductive toxicity, and neurotoxicity (acute and subchronic), to be conducted by the inhalation route of exposure.

In that proposed TSCA section 4(a) rule, EPA also invited the submission of proposals that could use the performance of PK studies and computional dosimetry modeling to permit extrapolation from oral data to predict risk from inhalation exposure. Such proposals could provide the scientific basis for alternative testing to the testing proposed under the rule and form the basis for developing needed HAPs data via ECAs (Refs. 3, 4, and 5).

On November 22, 1996, Dow Chemical Company, Vulcan Materials Company, Occidental Chemical Corporation, Oxy Vinyls, LP, Georgia Gulf Corporation, Westlake Chemical Corporation, PPG Industries, Inc., and Formosa Plastics Corporation, U.S.A. (the Companies), under the auspices of the HAP Task Force (the principal testing sponsor), submitted a proposal for alternative testing of EDC that included physiologically based pharmacokinetics (PBPK) studies and computational dosimetry model development to support route-to-route

extrapolation of testing to be conducted under the ECA by the oral route (Ref. 6). EPA considered this proposal sufficient (Ref. 7) to enter into ECA negotiations with the Companies and other interested parties (Ref. 8). The ECA for EDC was announced in the **Federal Register** of June 3, 2003 (Ref. 9). Under the EDC ECA (Ref. 10), the HAPs data needs for EDC are being addressed via an alternative testing program that utilizes testing by inhalation and the oral route, computational dosimetry model development, and development of PK/MECH data to support route-to-route extrapolation modeling for health effects endpoints identified in the ECA. EPA anticipates fulfilling all of the health effects testing requirements identified in the HAPs proposed rule, as amended, by implementation of the testing to be performed under the EDC ECA and Order.

B. How is EPA Implementing Testing for EDC Under the ECA?

The EDC ECA alternative testing program has four segments, as follows: Tier I HAPs Testing, Tier I Program Review Testing, EPA Program Review, and Tier II Testing and/or Extrapolation Reporting.

1. *Tier I HAPs Testing.* The ECA testing and reporting requirements for Tier I HAPs Testing have been completed. Under this segment of the EDC ECA, the Companies performed endpoint testing for acute toxicity, with bronchoalveolar lavage (BAL) and histopathology, and acute neurotoxicity (Ref. 11). These studies were conducted under a combined protocol by inhalation exposure. The ECA acknowledged that macrophage function testing (a component of EPA's acute toxicity test guideline 40 CFR 799.9135) is adequately fulfilled by existing data published by Sherwood et al. (1987; Ref. 12) and also acknowledged that the developmental studies reported by Rao et al. (1980; Ref. 13), in rabbits, and Payan et al. (1995; Ref. 14) in rats, adequately fulfill the HAPs rulemaking testing requirements for developmental toxicity testing for EDC.

2. *Tier I Program Review Testing.* The ECA testing and reporting requirements for Tier I Program Review Testing have been completed. Under this segment of the EDC ECA the Companies conducted studies to extend the computational dosimetry model of D'Souza et al. (1987, 1988; Refs. 15 and 16) in order to apply the model to the specific health effects endpoints for EDC listed in the ECA, validate the model, and verify the model's ability to perform quantitative route-to-route extrapolations of dose response. The ECA provided for the development of PK/MECH data to support the application of the computational dosimetry model for the endpoints listed under Tier II of the EDC ECA. The Companies also provided model simulations with point and uncertainty estimates of internal dose metrics (parent chemical peak and area under the curve (AUC) concentrations in blood and brain, and 24–hour total glutathione (GSH)-dependent metabolism in lung and liver) in rats and humans to inform quantitative route-to-route extrapolations of the EDC dose response. Furthermore, based on an additional analysis of the D'Souza et al. model, the ECA was modified to include the kidney in the examination of GSH-dependent metabolism (Refs. 17, 18, and 19). Information derived from the GSH-metabolism, PK/MECH data, and model simulations will be used to evaluate the acceptability of performing:

i. Oral-to-inhalation extrapolation of subchronic toxicity data reported by Daniel, et al. (1994; Ref. 20) relevant to corn oil gavage.

ii. Oral-to-inhalation extrapolation of subchronic neurotoxicity data relevant to drinking water exposure of a study to be conducted under Tier II Testing.

iii. Oral-to-inhalation extrapolation of reproductive effects testing conducted under Tier II Testing and each dosing paradigm of studies reported by Alumot et al. (1976; Ref. 21), Rao et al. (1980, Ref. 13), and Lane et al. (1982; Ref. 22).

3. *EPA Program Review.* As indicated in Unit VI.C. of the EDC ECA and Unit II.B.3. of this notice, computational dosimetry model development and data from Tier I Program Review Testing are subject to an EPA Program Review. The EPA Program Review will determine whether the computational dosimetry model and the PK/MECH data used to support the route-to-route extrapolations of dose response are scientifically sound and provide the highest quality data. Specifically, as described in Unit VII. of the EDC ECA, the EPA Program Review will determine:

i. Whether it is feasible and appropriate to apply Tier I Program Review Testing data and data from other studies acceptable to EPA to support computational route-to-route extrapolations of dose response for any or all of the endpoints listed in the Tier II Testing segment of the ECA, including endpoint data from extant studies cited in the EDC ECA;

ii. Whether the data from the Tier I Program Review Testing segment provide a sufficient basis for conducting the endpoint testing and/or the computational route-to-route extrapolations for the dose responses specified in the Tier II Testing segment; and/or

iii. The nature and scope of any additional work (e.g., development of additional PK/MECH data, modification to the EDC computational dosimetry model) that may be required to support Tier II Testing and application of the EDC computational dosimetry model for route-to-route extrapolation of dose-response reporting for the testing endpoints listed under Tier II of the EDC ECA.

4. *Tier II Testing and/or Extrapolation Reporting.* This segment of the EDC ECA alternative testing program will consist of endpoint testing by drinking water exposure for subchronic neurotoxicity and reproductive toxicity. The reproductive effects toxicity testing is intended to confirm studies reported by Alumot et al. (1976; Ref. 21), Rao et al. (1980; Ref. 13), and Lane et al. (1982; Ref. 22), and provide data needed on fertility index, gestation index, gross necropsy, organ weight, histopathology, estrous cycle, sperm evaluation, vaginal opening, and preputial separation as described in the ECA. This segment will also include application of the EDC computational dosimetry model for quantitative route-to-route extrapolation reporting (oral to inhalation) for Tier II endpoint testing (subchronic neurotoxicity and reproductive toxicity) and similar computational extrapolation reporting for extant subchronic toxicity reported by Daniel et al. (1994; Ref. 20).

III. What Action is the Agency Taking?

A. What Opportunity is There for Public Involvement in EPA's Program Review?

Tier I HAPs Testing for EDC is completed and reports for Tier I Program Review Testing have been submitted by the Companies. Copies of these submissions are available in the public docket (EPA–HQ–OPPT–2003–0010). As described in Unit II.B.3. and stated in Part VI. of the EDC ECA, the next step is for EPA to conduct a Program Review on the data collected from the Tier I Program Review Testing segment of the EDC ECA alternative testing program. As noted in Unit I.B., this notice of availability and request for written comments provides an opportunity for public comment on reports subject to this EPA Program Review.

B. What Happens at the Conclusion of EPA's Program Review?

A description of the possible outcomes of the EPA Program Review is provided in Part VII. of the EDC ECA. Following the EPA Program Review, EPA will place in the public docket for

this action (under docket ID number EPA–HQ–OPPT–2003–0010) a copy of each comment received, and a copy of the letter informing the HAP Task Force of the outcome from EPA's Program Review. EPA will publish a **Federal Register** notice which announces the availability of a report describing the findings and conclusions of the Program Review, responds to comments on the Tier I Program Review Testing, identifies any modifications to Tier II ECA activities, and establishes revised deadlines as needed for completion of Tier II Testing and route-to-route computational dosimetry modeling for extrapolations listed under Tier II of the ECA for EDC.

IV. Materials in the Docket

The docket for this document has been established under docket ID number EPA–HQ–OPPT–2003–0010. The public docket is available for review as specified in **ADDRESSES**. The following is a listing of the documents referenced in this preamble that have been placed in the public docket for this document:

1. HAP Task Force. Letter from Peter E. Voytek to the Document Control Office with attachment entitled: *1,2-Dichloroethane (EDC): Limited Pharmacokinetics and Metabolism Study in Fischer 344 Rats*. March 2, 2006. (See Document ID No. EPA–HQ–OPPT–2003–0010–0081 (for letter) and Document ID No. EPA–HQ–OPPT–2003–0010–0082 (for attachment)).

2. HAP Task Force. Letter from Peter E. Voytek to the Document Control Office with attachment entitled: *Physiologically Based Pharmacokinetic Model Development and Simulations for Ethylene Dichloride (1,2-Dichloroethane) in Rats*. July 7, 2006. (See Document ID No. EPA–HQ–OPPT–2003–0010–0086).

3. EPA. Proposed Test Rule for Hazardous Air Pollutants. Proposed Rule. **Federal Register** (61 FR 33178, June 26, 1996) (FRL–4869–1). Available on-line at *http://www.epa.gov/fedrgstr/*.

4. EPA. Amended Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period. Proposed Rule. **Federal Register** (62 FR 67466, December 24, 1997) (FRL–5742–2). Available on-line at *http://www.epa.gov/fedrgstr/*.

5. EPA. Amended Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period. Proposed Rule. **Federal Register** (63 FR 19694, April 21, 1998) (FRL–5780–6). Available on-line at *http://www.epa.gov/fedrgstr/*.

6. HAP Task Force. Letter from Peter E. Voytek to the Document Control Office with attachment entitled: *Proposal for Pharmacokinetics Study of Ethylene Dichloride, November 22, 1996*. November 22, 1996. (See Document ID No. EPA–HQ–OPPT–2003–0010–0034).

7. EPA. Letter from Charles M. Auer to Peter E. Voytek with attachment entitled: *Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Ethylene Dichloride, June, 1997*. June 26, 1997. (See Document ID No. EPA–HQ–OPPT–2003–0010–0035).

8. EPA. Enforceable Consent Agreement Development for Ethylene Dichloride; Solicitation of Interested Parties and Notice of Public Meeting. Notice. **Federal Register** (62 FR 6626, December 19, 1997) (FRL–5763–1). Available on-line at *http://www.epa.gov/fedrgstr/*.

9. EPA. 1,2-Ethylene Dichloride; Final Enforceable Consent Agreement and Testing Consent Order. Notice. **Federal Register** (68 FR 33125, June 3, 2003) (FRL–7300–6). Available on-line at *http://www.epa.gov/fedrgstr/*.

10. EPA. Enforceable Consent Agreement for 1,2-Ethylene Dichloride. May 15, 2003. (CAS No. 107–06–2) (See Document ID No. EPA–HQ–OPPT–2003–0010–0002).

11. HAP Task Force. Letter from Peter E. Voytek to the Document Control Office with attachment entitled: *1,2-Dichloroethane (EDC): Acute Inhalation Toxicity with Bronchoalveolar Lavage and Histopathology/Acute Inhalation Neurotoxicity Study in F344/DUCRL Rats*. June 21, 2006. (See Document ID Nos. EPA–HQ–OPPT–2003–0010–0087 through EPA–HQ–OPPT–2003–0010–0087.6).

12. Sherwood, R.L.; O'Shea, W.; Thomas, P.T.; Ratajczak, H.V.; and Aranyi, C. Effects of inhalation of ethylene dichloride on pulmonary defenses of mice and rats. *Toxicology and Applied Pharmacology* 91: 491–496 (1987).

13. Rao, K.S.; Murray, J.S.; Deacon, M.M.; John, J.A.; Calhoun, L.L.; and Young, J.T. Teratogenicity and reproduction studies in animals inhaling ethylene dichloride. *Banbury Report* 5: 149–166 (1980).

14. Payan, J.P.; Saillenfait, A.M.; Bonnet, P.; Fabry, J.P.; Langonne, I.; and Sabate J.P. Assessment of the developmental toxicity and placental transfer of the 1,2-dichloroethane in rats. *Fundamental and Applied Toxicology* 28: 187–198 (1995).

15. D'Souza, R.W.; Francis, W.R.; Bruce R.D.; and Andersen, M.E. Physiologically based pharmacokinetic model for ethylene dichloride and its application in risk assessment, pp 286–301. *Pharmacokinetics in Risk Assessment*. National Academy Press. Washington, DC (1987).

16. D'Souza, R.W.; Francis, W.R.; and Andersen, M.E. Physiological model for tissue glutathione depletion and increased resynthesis after ethylene dichloride exposure. *Journal of Pharmacology and Experimental Therapeutics* 245(2): 563–568 (1988).

17. EPA. Letter dated March 24, 2004 from Wardner G. Penberthy to Peter E. Voytek with two attachments entitled:

i. *Addendum Modification to Enforceable Consent Agreement for 1,2,Ethylene Dichloride (EDC)*.

ii. *Application of a PBPK model for cancer and non-cancer risk assessment of 1,2-dicholoroethane. Phase I: Evaluation of issues related to the use of a PBPK model for DCE*. Requisition Reference No. 2WE59, QT–DC–030387.

(See Document ID Nos. EPA–HQ–OPPT–2003–0010–0059 (for letter) and EPA–HQ–OPPT–2003–0010–0060 (for attachments)).

18. HAP Task Force. Letter from Peter E. Voytek to the Document Control Office Re: Testing Consent Order for Ethylene Dichloride; Request for Modification of Enforceable Consent Agreement. June 21, 2004. (See Document ID No. EPA–HQ–OPPT–2003–0010–0063).

19. EPA. Letter dated July 14, 2004 from Wardner G. Penberthy to Peter E. Voytek RE: 1,2-Ethylene Dichloride (EDC), Request for Modification of PBPK Testing in Tier I Testing of the EDC ECA. (See Document ID No. EPA–HQ–OPPT–2003–0010–0065).

20. Daniel, F.B.; Robinson, M.; Olson, G.R.; York, R.G.; and Condie, L.W. Ten and ninety-day toxicity studies of 1,2-dichloroethane in Sprague-Dawley rats. *Drug and Chemical Toxicology* 17: 463–477 (1994).

21. Alumot, E.; Nachtomi, E.; Mandel, E.; Holstein, P.; Bondi, A.; and Herzberg, M. Tolerance and acceptable daily intake of chlorinated fumigants in the rat diet. *Food, Cosmetics and Toxicology* 14: 105–110 (1976).

22. Lane, R.W.; Riddle, B.L.; and Borzelleca, J.F. Effects of 1,2-dichloroethane and 1,1,1-trichloroethane in drinking water on reproduction and development in mice. *Toxicology and Applied Pharmacology* 63: 409–421 (1982).

List of Subjects

Environmental protection, 1,2-Ethylene Dichloride, Hazardous chemicals.

Dated: August 24, 2006.

Wardner G. Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. E6–14639 Filed 9–1–06; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 29, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Traders & Farmers Bancshares, Inc. Haleyville, Alabama; to become a bank holding company by acquiring 100 percent of the outstanding shares of Traders & Farmers Bank, Haleyville, Alabama.

Board of Governors of the Federal Reserve System, August 30, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–14615 Filed 9–1–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations.

Time and Date: September 18, 2006, 8:30 a.m.–5 p.m. September 19, 2006, 8:30 a.m.–5 p.m.

Place: Renaissance Washington, DC Hotel, 999 Ninth Street, NW., Washington, DC 20001. (202) 898–9000.

Status: Open.

Purpose: The purpose of the meeting is to identify data linkages for statistical purposes within and among Federal government agencies with a view to promoting best practices.

For Further Information Contact: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Joan Turek, Ph.D., Staff to the Subcommittee on Populations, Office of the Assistant Secretary for Planning and Evaluation, Room 434E, 200 Independence Avenue, SW., Washington, DC 20201, telephone (202) 690–5945, e-mail *joan.turek@hhs.gov*; or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/,* where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: August 28, 2006.

James Scanlon,

Deputy Assistant Secretary for Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 06–7403 Filed 9–1–06; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–06–05CL]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Formative Evaluation of Adults' and Children's Views Related to Promotion of Healthy Food Choices—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In FY 2004, Congress directed the Centers for Disease Control and Prevention (CDC) to conduct formative research on the attitudes of children and parents regarding nutrition behavior. Specifically, the conferees' FY 2004 Appropriation Language instructs CDC to research parents' and children's viewpoints on ''the characteristics of effective marketing of foods to children to promote healthy food choices.'' Upon completion, a report detailing CDC's

findings is to ''be submitted to the appropriate Committees of jurisdiction of Congress.''

In response, CDC has contracted with the Academy for Educational Development (AED) to conduct focus groups to identify key audience concepts around food choices, and develop and test concepts and messages aimed at increasing healthy food choices among children. For the research to be useful to Congress and to the nation's public health agenda, a thorough understanding of children at different developmental stages regarding their attitudes toward healthy food choices, and the barriers and motivations for adopting and sustaining these choices is essential. Additionally, a thorough understanding of parents who can influence the health behaviors of children is important. This understanding will facilitate the development of messages, strategies, and tactics that resonate with children, parents, and other influencers.

The focus groups will be conducted in three phases: Phase One will address ''tweens'' (ages 9–13) and parents of tweens; Phase 2 will focus on children 6–8 years old and their parents, and Phase 3 will conduct groups with parents of children under 6 years old. Current literature and opinion leaders both strongly suggest that tweens greatly influence their parents' and younger siblings' nutritional decisions.

For each phase, 36 focus groups will be conducted; thus, three phases will amount to 108 total focus groups. In Phases 1 and 2, focus groups will involve both youth and their parents or key caregivers. In this way, CDC can gain insight into both parents' and children's views and family shared decision-making associated with food choices and attitudes toward healthy eating patterns. For Phase 3, 36 focus groups about the toddler/young child set (ages 1–5) will be held with their parents and other important influencers such as educators, primary caregivers, health care providers. (See chart below for specifics on structure and related burden.)

All focus group recruiting will incorporate appropriate representation of diverse ethnic groups, and the groups will be held in several cities to ensure broad geographic representation. Participants will be recruited by focus group facilities utilizing their database to solicit and screen interested parties. The screening process will include two calls for every successful recruit, each taking approximately 5 minutes. Each focus group will be asked to respond verbally. The moderator will utilize a prepared guide which is designed to specifically ensure that the discussion is limited to 2 hours.

The intent of this research is to solicit input and feedback from potential audiences. The information gathered will be used to develop, refine, and modify messages and strategies to increase healthy food choices by children and parents. There is no cost to respondents other than their time to participate in the survey.

Estimated Annualized Burden Hours

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hours)	Total burden (hours)
Phase 1: Recruitment	528	1	10/60	88
Phase 1: Tweens (ages 9–13);	264	1	2	528
Phase 1: Parents of tweens;	120	1	2	240
Phase 2: Recruitment	528	1	10/60	88
Phase 2: Elementary aged children (ages 5–8);	264	1	2	528
Phase 2: Parents of elementary aged children	120	1	2	240
Phase 3: Recruitment	720	1	10/60	120
Phase 3: Parents of preschoolers (ages 1–4);	360	1	2	720
Total				2552

Dated: August 28, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–14620 Filed 9–1–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–06–0398x]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Evaluation of an Intervention to Increase Colorectal Cancer Screening in Primary Care Clinics—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Colorectal cancer (CRC) is the third most frequent form of cancer and the second leading cause of cancer-related deaths among both men and women in the United States. Research shows that screening can reduce both the occurrence of colorectal cancer and

colorectal cancer deaths. Screening is beneficial for: (1) Detection and removal of precancerous polyps, resulting in patients recovering without progression to a diagnosis of cancer, and (2) early detection of CRC for more effective treatment and improved survival. Regular CRC screening is recommended for people aged 50 years and older. Many screening tests are widely available and screening has been shown to be effective in reducing CRC mortality. Despite this demonstrated effectiveness, CRC screening remains low. Some reasons attributed to the low screening rates include limited public awareness of CRC and the benefits of screening, failure of health care providers to recommend screening to patients, and inefficient surveillance and support systems in many health care settings.

The purpose of this one-time study is to evaluate and understand the effect of a multi-component intervention on CRC screening rates in primary care clinics. The study will also examine the effects of the intervention conditions on behavioral outcomes (*e.g.*, clinician-patient discussions about CRC screening) and on attitudes, beliefs, opinions, and social influence surrounding CRC screening among patients. The target population includes average-risk patients aged 50–80 years, clinicians, and clinic support staff within the primary care clinics in two managed care organizations (MCOs). There are three tasks in this study. In Task 1, 140 primary care clinicians will complete a survey assessing demographics, opinions about preventive services, CRC screening training and practices, satisfaction with CRC screening, and CRC screening beliefs, facilitators, and barriers. The survey will be administered to primary care clinicians post-intervention. In Task 2, 140 clinic support staff will complete a survey assessing demographics, work-related responsibilities, opinions about preventive services, CRC training and practices, satisfaction with CRC screening, and CRC screening beliefs, facilitators and barriers. The survey will be administered to clinic support staff post intervention. In Task 3, clinic patients will complete a survey assessing demographics, health status, receipt of previous CRC screening and other preventive services, knowledge and opinions about CRC and CRC screening, and social support. The survey will be administered to 3307 patients pre-intervention and 3307 patients post-intervention. Of these, 972 patients will receive both the pre- and post-intervention survey.

There are no costs to respondents except their time to participate in the survey.

Estimated Annualized Burden Hours

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hours)	Total burden (hours)
Clinicians	140	1	30/60	70
Clinic Support Staff	140	1	25/60	58
Patients surveyed only at baseline	2335	1	20/60	788
Patients surveyed at baseline and follow-up	972	2	20/60	648
Patients surveyed only at follow-up	2335	1	20/60	788
Totals				2352

Dated: August 28, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–14622 Filed 9–1–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Committee on Rural Health and Human Services; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the following committee will convene its fifty-second meeting.

Name: National Advisory Committee on Rural Health and Human Services.

Dates and Times: September 28, 2006, 2 p.m.–5:30 p.m.; September 29, 2006, 8:30 a.m.–4:30 p.m.; September 30, 2006, 9 a.m.–10:30 a.m.

Place: Center for Rural Health, University of North Dakota, 501 N. Columbia Rd., Grand Forks, North Dakota 58203; Holiday Inn Grand Forks, 1210 N 43rd Street, Grand Forks, North Dakota 58203; Spirit Lake Casino and Resort, 7889 Highway 57, St. Michael, North Dakota 58370, Phone: 701–766–4747.

Status: The meeting will be open to the public.

Purpose: The National Advisory Committee on Rural Health and Human Services provides advice and recommendations to the Secretary with respect to the delivery, research, development and administration of health and human services in rural areas.

Agenda: Thursday afternoon, September 28, at 2 p.m., a press conference with be held with the Chairperson of the Committee, the Honorable David Beasley. The meeting will begin at 2:30 p.m., at the University of North Dakota, with opening remarks by the Honorable David Beasley. Introductions will be made by Mary Wakefield, Associate Dean for Rural Health and Director of the Center for Rural Health at the University of North Dakota and Charles Kupchella, President of the University of North Dakota. This will be followed by a brief history of North Dakota by Mike Jacobs (invited speaker), editor of the Grand Forks Herald, and an overview of rural health innovation by Bruce Gjovig with the Center for Innovation and Rural Technology Center. The next session will be an overview of the Rural Assistance Center by Kristine Sande. The final session of the day will be a discussion on the purpose of the site visits and future agenda setting led by the Honorable David Beasley and Tom Morris, Committee Executive Secretary. The Thursday meeting will close at 5:30 p.m.

Friday morning, September 29, at 8:30 a.m., the Committee will convene at the Holiday Inn Grand Forks, Grand Forks, North Dakota. The meeting will begin with an explanation of the day and an overview of the site visits. At 9 a.m., the Committee will break into subcommittee format for the site visits. At 9:15 a.m., the Medicare Advantage Subcommittee will depart for Mercy Hospital in Devils Lake, North Dakota. Also, at 9:15 a.m., the Head Start Subcommittee will depart for the Early Explorers Head Start Program in Devils Lake, North Dakota. The Substance Abuse Subcommittee will depart for the Center for Solutions, Towner County Medical Center in Cando, North Dakota, at 9:30 a.m. Transportation to these sites will not be provided. The Subcommittees will return to Spirit Lake Casino and Resort in St. Michael, North Dakota, for the remainder of the meeting. The Subcommittees will meet at 2:15 p.m. to discuss the site visits. The Committee of the whole will reconvene at 3:30 p.m. for a discussion of the 2007 report topics. The Friday meeting will close at 4:30 p.m.

The final session will be convened Saturday morning, September 30, at 9 a.m. The Committee will review the discussion of the 2007 Workplan, have updates on the Subcommittee site visits and discuss the letter to the Secretary. The meeting will be adjourned at 10:30 a.m.

For Further Information Contact: Anyone requiring information regarding the Committee should contact Tom Morris, M.P.A., Executive Secretary, National Advisory Committee on Rural Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 9A–55, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–0835, Fax (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Michele Pray-Gibson, Office of Rural Health Policy (ORHP), Telephone (301) 443–0835. The Committee meeting agenda will be posted on ORHP's Web site *http://www.ruralhealth.hrsa.gov*.

Dated: August 28, 2006.

Cheryl R. Dammons,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–14587 Filed 9–1–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended.

DATES: To ensure consideration, written comments must be received on or before October 5, 2006.

ADDRESSES: Written comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Ave. SW., Room 4102, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, (505) 248–6920.

SUPPLEMENTARY INFORMATION:

Permit No. TE–038050

Applicant: Trevor Hare, Tucson, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys and enhance propagation for Gila Chub (*Gila intermedia*) within Arizona.

Permit No. TE–794593

Applicant: Texas State Aquarium, Corpus Christi, Texas.

Applicant requests an amendment to an existing permit to hold northern aplomado falcon (*Falco femoralis septentrionalis*) for educational displays within Texas.

Permit No. TE–828830

Applicant: Bureau of Land Management-Tucson, Tucson, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys and enhance propagation for Gila Chub (*Gila intermedia*) within Arizona.

Permit No. TE–841909

Applicant: Prescott National Forest, Chino Valley, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys and enhance propagation for Gila Chub (*Gila intermedia*) within Arizona.

Permit No. TE–841359

Applicant: Gila National Forest, Silver City, New Mexico.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys and enhance propagation for Gila Chub (*Gila intermedia*) within Arizona.

Permit No. TE–122838

Applicant: Jennifer Gumm, Bethlehem, Pennsylvania.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for Leon Springs pupfish (*Cyprinodon bovinus*) within Texas.

Permit No. TE–814841

Applicant: Desert Botanical Gardens, Phoenix, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys and to collect seed and/or cuttings for *Pediocactus bradyi* (Brady pincushion cactus) and *Pediocactus peeblesianus* (Peebles Navajo cactus) within Arizona.

Permit No. TE–122856

Applicant: George Robert Myers, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for Mexican long-nosed bat (*Leptonycteris nivalis*), lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*), Barton Springs salamander (*Eurycea sosorum*), San Marcos Salamander (*Eurycea nana*), Texas blind salamander (*Typhlomolge rathbuni*), and Peck's cave amphipod (*Stygobromus pecki*) within Texas. Additionally, applicant requests authorization to survey for and collect the following species within Texas: *Batrisodes texanus* (Coffin Cave mold beetle), *Stygoparnus comalensis* (Comal Springs dryopid beetle), *Heterelmis comalensis* (Comal Springs riffle beetle), *Batrisodes venyivi* (Helotes mold beetle), *Cicurina baronia* (Robber Baron Cave meshweaver), *Cicurina madla* (Madla's cave meshweaver), *Cicurina venii* (Braken Bat Cave meshweaver), *Cicurina vespera* (Government Canyon Bat Cave meshweaver), *Neoleptoneta microps* (Government Canyon Bat Cave spider), *Neoleptoneta myopica* (Tooth Cave spider), *Rhadine exilis* (ground beetle, no common name), *Rhadine infernalis* (ground beetle, no common name), *Rhadine persephone* (Tooth Cave ground beetle), *Tartarocreagris texana* (Tooth Cave pseudoscorpion), *Texamaurops reddelli* (Kretschmarr Cave mold beetle), *Texella cokendolpheri* (Cokendolpher cave harvestman), *Texella reddelli* (Bee Creek Cave harvestman), and *Texella reyesi* (Bone Cave harvestman).

Permit No. TE–122857

Applicant: Texas State University, San Marcos, Texas.

Applicant requests a new permit for research and recovery purposes to collect and survey for *Heterelmis comalensis* (Comal Springs riffle beetle) within Texas.

Permit No. TE–123070

Applicant: Susana Morales, Tucson, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the following species within Arizona, New Mexico, Oklahoma, and Texas: black-capped vireo (*Vireo atricapillus*),

cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*), golden-cheeked warbler (*Dendroica chrysoparia*), interior least tern (*Sterna antillarum*), lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*), northern aplomado falcon (*Falco femoralis septentrionalis*), piping plover (*Charadrius melodus*), red-cockaded woodpecker (*Picoides borealis*), southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*), and Houston toad (*Bufo houstonensis*).

Permit No. TE–009792

Applicant: The Arboretum at Flagstaff, Flagstaff, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys and to collect seed and/or cuttings for *Astragalus humillimus* (Mancos milk-vetch) within New Mexico and Colorado.

Permit No. TE–028605

Applicant: SWCA Environmental Consultants, Flagstaff, Arizona.

Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species throughout their respective ranges in Arizona, New Mexico, and Texas: black-footed ferret (*Mustela nigripes*), Hualapai Mexican vole (*Microtus mexicanus hualpaiensis*), lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*), Mexican long-nosed bat (*Leptonycteris nivalis*), Mount Graham red squirrel (*Tamiasciurus hudsonicus grahamensis*), Yuma clapper rail (*Rallus longirostris yumanensis*), Gila chub (*Gila intermedia*), Sonoran tiger salamander (*Ambystoma tigrinum stebbinsi*), and Virgin River chub (*Gila robusta semidnuda*).

Permit No. TE–088197

Applicant: High Mesa Research, Arroyo Seco, New Mexico.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within New Mexico.

Permit No. TE–814933

Applicant: Texas Parks and Wildlife Department, Austin, Texas.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct surveys, mist-net and collect tissue samples for Mexican long-nosed bat (*Leptonycteris nivalis*) within Big Bend National Park, Texas.

Permit No. TE–127287

Applicant: Loren K. Ammerman, San Angelo, Texas.

Applicant requests a new permit for research and recovery purposes to conduct surveys, mist-net and collect tissue samples for Mexican long-nosed bat (*Leptonycteris nivalis*) within Big Bend National Park, Texas.

Permit No. TE–039139

Applicant: Bat Conservation International, Austin, Texas.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct surveys, capture, light tag and zip-line for lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*) within Texas.

Permit No. TE–129406

Applicant: Gill Michael Sorg, Las Cruces, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for northern aplomado falcon (*Falco femoralis septentrionalis*) within Arizona and New Mexico.

Permit No. TE–006655

Applicant: Logan Simpson Design, Tempe, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys and enhance propagation for Gila Chub (*Gila intermedia*) within Arizona.

Permit No. TE–130663

Applicant: Hermosa Montessori Charter School, Tucson, Arizona.

Applicant requests a new permit for research and recovery purposes to monitor and enhance propogation for Gila topminnow (*Poeciliopsis occidentalis*) and desert pupfish (*Cyprinodon macularius*) as well as providing management of holding facilities within Arizona.

Authority: 16 U.S.C. 1531, *et seq.*

Dated: August 25, 2006.

Christopher T. Jones,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 06–7400 Filed 9–1–06 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Safe Harbor Agreement for the California Red-Legged Frog for Landowners Restoring Aquatic and Riparian Habitat in the Cottonwood Creek Watershed in Shasta and Tehama Counties, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: This notice advises the public that the Cottonwood Creek Watershed Group (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed Safe Harbor Agreement (Agreement) between the Applicant and the Service for the threatened California red-legged frog (CRLF) (*Rana aurora draytonii*). The Agreement and permit application are available for public comment.

DATES: Written comments should be received on or before October 5, 2006.

ADDRESSES: Comments should be addressed to Shannon Holbrook, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825. Written comments may be sent by facsimile to (916) 414–6712.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon Holbrook, Sacramento Fish and Wildlife Office (see **ADDRESSES**); telephone: (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the documents for review by contacting the individual named above. You may also make an appointment to view the documents at the above address during normal business hours.

Background

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act. Safe Harbor Agreements, and the subsequent enhancement of survival permits that are issued pursuant to Section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*), encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will

not be subjected to increased land use restrictions as a result of efforts to attract or increase the numbers or distribution of a listed species on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c).

We have worked with the Applicant to develop this proposed Programmatic Agreement for the conservation of the CRLF in the 603,854-acre Cottonwood Creek Watershed in Shasta and Tehama Counties, California. The properties subject to this Agreement consist of approximately 500,000 acres of non-Federal properties within the boundaries of the Cottonwood Creek Watershed, on which habitat for the California red-legged frog will be restored, enhanced, and managed pursuant to a written agreement between the Cottonwood Creek Watershed Group (CCWG) and a property owner.

This Agreement provides for the creation of a Program in which private landowners (Program Participants) enter into written cooperative agreements with the Applicant pursuant to the terms of the Agreement, to restore, enhance, and maintain aquatic and riparian habitat in ways beneficial to the CRLF. Such cooperative agreements will be for a term of at least 10 years. The proposed duration of the Agreement is 30 years, and the proposed term of the enhancement of survival permit is 32 years. The permit would run the additional 2 years following a determination by the Service that the actions identified in the Agreement were implemented prior to the Agreement's expiration. The Agreement fully describes the proposed management activities to be undertaken by Program Participants and the conservation benefits expected to be gained for the CRLF.

Upon approval of this Agreement, and consistent with the Service's Safe Harbor Policy published in the **Federal Register** on June 17, 1999 (64 FR 32717), the Service would issue a permit to the Cottonwood Creek Watershed Group authorizing take of CRLF by Program Participants incidental to the implementation of the management activities specified in the cooperative agreements, incidental to other lawful uses of the properties, including normal routine land management activities, and/or to return to pre-Agreement conditions.

To benefit the CRLF, Program Participants will agree to undertake site-specific management activities, which will be specified in their written cooperative agreements. Management activities that could be included in the Cooperative Agreements will provide for the enhancement, restoration, and/or maintenance of aquatic and riparian habitat. These activities have been designed to enhance populations of CRLF by improving breeding habitat, managing vegetation and grazing as appropriate, controlling non-native predators, and managing agriculture and recreation as appropriate to benefit populations of CRLF. Take of CRLF incidental to the aforementioned activities is unlikely; however, it is possible that in the course of such activities or other lawful activities on the enrolled property, a Program Participant could incidentally take a CRLF, thereby necessitating take authority under the permit.

The CRLF relies on a variety of habitats for various stages of its life cycle, including pond and riparian habitat, upland habitat and moist refuges. Pre-Agreement conditions (baseline), consisting of a description and survey to determine the quantity and location of suitable CRLF habitat, shall be determined for each enrolled property as provided in the Agreement. In order to receive the above assurances regarding incidental take of CRLF, a Program Participant must maintain baseline on the enrolled property. The Agreement and requested enhancement of survival permit will allow each Program Participant to return to baseline conditions after the end of the term of the 10-year cooperative agreement and prior to the expiration of the 32-year permit, if so desired by the Applicants.

Consistent with the Service's Safe Harbor Policy (64 FR 32717), the proposed Agreement and requested permit also extend certain assurances to those lands that are immediately adjacent to lands on which restoration activities occur. To receive such assurances, a neighboring landowner must enter into a written agreement with the Service that specifies the baseline conditions on the property. This written agreement remains in effect until the expiration of the 30-year Agreement between the Applicant and the Service and requires the neighboring landowner to maintain the baseline conditions established at the start of the agreement.

Public Review and Comments

The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). We explain the basis for this determination in an Environmental Action Statement, which is also available for public review.

Individuals wishing copies of the permit application, copies of our preliminary Environmental Action Statement, and/or copies of the full text of the Agreement, including a map of the proposed permit area, references, and legal descriptions of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section above.

If you wish to comment on the permit application or the Agreement, you may submit your comments to the address listed in the **ADDRESSES** section of this document. Comments and materials received, including names and addresses of respondents, will be available for public review, by appointment, during normal business hours at the address in the **ADDRESSES** section above and will become part of the public record, pursuant to section 10(c) of the Act. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. Anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

We will evaluate this permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations at 40 CFR 1506.6. If we determine that the requirements are met, we will sign the proposed Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicants for take of the CRLF incidental to otherwise lawful activities in accordance with the terms of the Agreement. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

The Service provides this notice pursuant to section 10(c) of the Act and

pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Susan Moore,

Acting Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.

[FR Doc. 06–7402 Filed 9–1–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Safe Harbor Agreement for the California Red-Legged Frog and the California Tiger Salamander for Landowners Restoring and Enhancing Stock Ponds in Alameda County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: receipt of application; request for comments.

SUMMARY: This notice advises the public that the Alameda County Resource Conservation District (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed Safe Harbor Agreement (Agreement) between the Applicant and the Service for the threatened California red-legged frog (CRLF) (*Rana aurora draytonii*) and the California tiger salamander (CTS) (*Ambystoma californiense*). The Agreement and permit application are available for public comment.

DATES: Written comments should be received on or before October 5, 2006.

ADDRESSES: Comments should be addressed to Shannon Holbrook, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, CA 95825, or sent by facsimile to (916) 414–6712.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon Holbrook, Sacramento Fish and Wildlife Office (see **ADDRESSES**); telephone: (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the documents for review by contacting the individual named above. You may also make an appointment to view the documents at the above address during normal business hours.

Background

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act. Safe Harbor Agreements, and the subsequent enhancement of survival permits that are issued pursuant to Section 10(a)(1)(A) of the Act (16 U.S.C. 1531 et seq.), encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c).

We have worked with the Applicant to develop this proposed Agreement for the conservation of the CRLF and CTS on private ranches in Alameda County, California. The properties subject to this Agreement consist of those non-Federal lands in Alameda County, California, on which existing stock ponds will be restored and maintained pursuant to a written agreement between the Natural Resources Conservation Service (NRCS) and the landowner.

This Agreement provides for the creation of a Program in which private landowners (Program Participants), who enter into written cooperative agreements with the Applicant pursuant to the terms of the Agreement, will restore, enhance, and maintain stock ponds in ways beneficial to the CRLF and CTS. Such cooperative agreements will be for a term of at least 10 years. The proposed duration of the Agreement is 50 years, and the proposed term of the enhancement of survival permit is 50 years. The Agreement fully describes the proposed Program, management activities to be undertaken by Program Participants, and the conservation benefits expected to be gained for the CRLF and CTS.

Upon approval of this Agreement, and consistent with the Service's Safe Harbor Policy published in the **Federal Register** on June 17, 1999 (64 FR 32717), the Service would issue a permit to the Applicants authorizing take of CRLF and CTS incidental to the implementation of the management activities specified in the cooperative agreements, incidental to other lawful uses of the properties, including normal, routine land management activities, or to return to pre-Agreement conditions.

To benefit the CRLF and CTS, Program Participants will agree to undertake management activities specified in their written cooperative agreements with the Applicant. Such management activities shall provide for the restoration and maintenance of an existing stock pond. These practices have been designed to achieve a high degree of likelihood that the pond will retain water through the rearing season of the CRLF and CTS so as to allow metamorphosis of their larvae, vegetation and grazing management appropriate to the conservation needs of the species, effective control of non-native predators, and related measures. The object of such measures is to enhance the potential of existing stock ponds to serve as effective breeding sites for the CRLF and CTS while simultaneously providing water for use by livestock. Take of CRLF or CTS incidental to the aforementioned activities is unlikely; however, it is possible that in the course of such activities or other lawful activities on the enrolled property, a Program Participant could incidentally take a CRLF or CTS, thereby necessitating take authority under the permit.

Both the CRLF and CTS rely on a variety of habitats for various stages of their life cycle, including pond and riparian habitat, upland habitat, and moist refuges. Pre-Agreement conditions (baseline), consisting of the size of existing ponds and riparian habitat, acreage of appropriate upland habitat and a characterization and location of moist refuges associated with ponds, shall be determined for each enrolled property as provided in the Agreement. In order to receive the above assurances regarding incidental take of CRLF and CTS, a Program Participant must maintain baseline on the enrolled property. The Agreement and requested enhancement of survival permit will allow each Program Participant to return to baseline conditions after the end of the term of the 10-year cooperative agreement and prior to the expiration of the 50-year permit, if so desired by the Applicants.

Consistent with the Service's Safe Harbor Policy (64 FR 32717 et seq.), the proposed Agreement and requested permit also extend certain assurances to those lands that are immediately adjacent to lands on which restoration activities occur. To receive such assurances, a neighboring landowner must enter into a written agreement with the Service that specifies the baseline conditions on the property. This written agreement remains in effect until the expiration of the 50-year Agreement between the Applicant and the Service and requires the neighboring landowner to maintain the baseline conditions established at the start of the agreement.

Public Review and Comments

The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). We explain the basis for this determination in an Environmental Action Statement, which is also available for public review.

Individuals wishing copies of the permit application, copies of our preliminary Environmental Action Statement, and/or copies of the full text of the Agreement, including a map of the proposed permit area, references, and legal descriptions of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section above.

If you wish to comment on the permit application or the Agreement, you may submit your comments to the address listed in the **ADDRESSES** section of this document. Comments and materials received, including names and addresses of respondents, will be available for public review, by appointment, during normal business hours at the address in the **ADDRESSES** section above and will become part of the public record, pursuant to section 10(c) of the Act. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. Anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

We will evaluate this permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. If we determine that the requirements are met, we will sign the proposed Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicants for take of the CRLF and CTS incidental to otherwise lawful activities in accordance with the terms of the Agreement. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Susan Moore,

Acting Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.

[FR Doc. E6–14630 Filed 9–1–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID 220 5101 ER D025]

Notice of Availability of the Record of Decision for the Cotterel Wind Power Project and Cassia Resource Management Plan Amendment/ Environmental Impact Statement

AGENCY: Lead Agency—Bureau of Land Management, Interior; Cooperating Agencies—U.S. Fish and Wildlife Service, Interior; Bureau of Reclamation, Interior; Bonneville Power Administration, Energy; Idaho Department of Lands; Cassia County Commissioners; Participating Agency—Idaho Department of Fish and Game.

ACTION: Notice of availability of a Record of Decision (ROD).

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the National Environmental Policy Act of 1969, the Bureau of Land Management announces the availability of the ROD for the Cassia Resource Management Plan Amendment/Environmental Impact Statement (EIS) for the Cotterel Wind Power Project, located in south central Idaho. The decision contained in the ROD is two-fold. It approves both the amendment to the Cassia Resource Management Plan and the issuance of a right-of-way grant pursuant to Title V of the Federal Land Policy and Management Act of 1976.

ADDRESSES: Copies of the Cotterel Wind Power Project ROD are available upon request from the Field Office Manager, Burley Field Office, Bureau of Land Management, 15 East 200 South, Burley, ID 83318. The document may also be viewed on the following Web site: *http://www.id.blm.gov/offices/burley/index.htm.*

FOR FURTHER INFORMATION CONTACT: Scott Barker, Project Manager, Burley Field Office, Bureau of Land Management, 15 East 200 South, Burley, ID 83318, phone (208) 677–6678, fax (208) 677–6699 or e-mail: *Scott_Barker@blm.gov.*

SUPPLEMENTARY INFORMATION: Windland, Inc. proposes to construct, operate, and maintain a wind-powered electric generation facility on the ridgeline of Cotterel Mountain, near the towns of Albion, Malta, and Burley in south central Idaho. Windland, Inc. has a development agreement with Shell Wind Energy, Inc. for this project.

Four alternatives were analyzed in a four-year collaborative process to arrive at the decisions contained in the ROD.

The approved Cassia Resource Management Plan Amendment permits the development of a single wind energy project as described in Alternative C of the Final Environmental Impact Statement, published in March 2006, and in the Plan of Development (POD) and environmental protection measures, which are attached to and made a part of the ROD.

BLM received eight protests to the proposed plan amendment, all of which have been resolved. The Governor determined this project EIS and plan amendment are both consistent with State policy by letter dated May 30, 2006.

Dated: July 31, 2006.

Kenneth E. Miller,

Burley Field Office Manager, Bureau of Land Management.

[FR Doc. E6–14647 Filed 9–1–06; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–066–1220–AL]

Notice of Relocation/Change of Address/Office Closure; Montana

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice.

EFFECTIVE DATE: September 15, 2006.

FOR FURTHER INFORMATION CONTACT: June Bailey, Lewistown Field Manager, 406/538–1900, BLM Lewistown Field Office, 920 NE Main Street, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: On September 15, 2006, the Bureau of Land Management's Fort Benton River Management Station, the Fort Benton Visitor Contact Station and the Fort Benton Law Enforcement Ranger will move/relocate their offices to the Upper Missouri River Breaks National Monument Interpretive Center, at 701 7th Street in Fort Benton, Montana 59442. The following business practices

will be in effect beginning September 15, 2006.

(A) The old river management station/office and visitor contact station will close on Friday, September 15, 2006. There will be no over-the-counter transactions or phone business that day. Emergency calls may be directed to the Lewistown Field Office at 406/538–1900.

(B) The physical and shipping/mailing addresses for the Fort Benton River Management Station will change. Effective September 18, 2006, all shipments and mail should be sent to: Fort Benton River Management Station, P.O. Box 1389, Fort Benton, Montana 59442. The physical address for the Fort Benton River Management Station office facilities will be 701 7th Street, Fort Benton, Montana, 59442.

(C) The main office telephone number for the Fort Benton River Management Station will remain the same: 406/622–4000.

(D) The BLM's Fort Benton River Management Station will resume full services on Monday, September 18, 2006, at 701 7th Street in Fort Benton, MT 59442. The office hours at the River Management Station will remain the same: 8 a.m. through 5 p.m.; Monday through Friday, except on Federally designated holidays.

Dated: August 21, 2006.

Michael P. Stewart,

Associate Lewistown Field Manager.

[FR Doc. E6–14666 Filed 9–1–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before August 19, 2006. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC, 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by September 20, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

DISTRICT OF COLUMBIA

Washington Heights Historic District, (Apartment Buildings in Washington, DC, MPS) Bounded by Columbia Rd., N.W., 19th St. N.W., 18th St. NW., and Florida Ave. NW., Washington, 06000875

INDIANA

St. Joseph County

Northside Boulevard Riverwall, (New Deal Work Relief Projects in St. Joseph County, Indiana MPS) 600–1100 Northside Blvd., South Bend, 06000877

Walker Field Shelterhouse, 1305 Ewing Ave., South Bend, 06000876

MARYLAND

Frederick County

Routzahn—Miller Farmstead, 9117 Frostown Rd., Middletown, 06000878

NEVADA

Washoe County

Robison House, 409 13th St., Sparks, 06000895

NEW JERSEY

Essex County

Hall Street School, 30 Hall St., Monroe Township, 06000879

NEW YORK

Broome County

Hawleyton Methodist Episcopal Church, Old, 923 Hawleyton Rd., Hawleyton, 06000893

Kilmer, Jonas M., House, 9 Riverside Dr., Binghamton, 06000885?≤ County

St. Margaret's Home, 7260 South Broadway, Red Hook, 06000883

Jefferson County

Adams Commercial Historic District, Main and North Main Sts. and portions of East and West Church Sts., Adams, 06000882

Livingston County

G.A.R. Memorial Hall, Main St., Hunt, 06000888

Hall's Opera Block, 15–19 Genesee St., Avon, 06000884

Monroe County

First Baptist Church of Fairport, 94 S. Main St., Fairport, 06000892

Jayne, William C., House, 183 E. Main St., Webster, 06000891

Saint Andrew's Episcopal Church, 95 Averill Ave., Rochester, 06000886

Nassau County

Bellerose Village Municipal Complex, 50 Superior Rd. and Magee Plaza, Bellerose, 06000889

Gould—Guggenheim Estate, 95 Middle Neck Rd., Port Washington, 06000881

Rockland County

Onderdonk House, 748 Piermont Ave., Piermont, 06000890

Saratoga County

Stillwater United Church, 135 Hudson Ave., Stillwater, 06000887

Schoharie County

Bunn—Tillapaugh Feed Mill, 2 High St., Richmondville, 06000894

Wyoming County

First Methodist Episcopal Church of Perry, 35 Covington St., Perry, 06000880

PUERTO RICO

Lares Municipality

Hacienda Los Torres, Jct. PR 111 and PR 129, Lares, 06000896

San Juan Municipality

Edificio Moragon, 354 Ponce de Leon Ave., San Juan, 06000897

VERMONT

Orleans County

Newport Downtown Historic District, Main, Coventry, Central, Secon, Summer, Third, School, Bayview, Eastern, Field, Seymour, Fyfe, Newport, 06000898

WEST VIRGINIA

Braxton County

Smith, Michael, House, End of Cty Rte 5/11, 1 mi. from jct. Cty Rte. 19/26, Cedarville, 06000902

Brooke County

Reeves, John C., House, 100 Reeves Dr., Wellsburg, 06000903

Cabell County

Elk River Coal and Lumber Company #10 Steam Locomotive, Jct. of Veteran's Memorial Blvd. and 11th St., Huntington, 06000901

Logan County

Chesapeake and Ohio 2755 Steam Locomotive, 500 ft. from jct. of Little Buffalo Creek Rd. and Park Rte. 801, Henlawson, 06000900

Monroe County

Miller—Pence Farm, 8 mi. W of Jct U.S. 219 and WV 122, Greenville, 06000899

WISCONSIN

Racine County

Racine Rubber Company Homes Historic District, Roughly bounded by Victory Ave., Republic Ave., Cleveland Ave. and West Boulevard, Racine, 06000904

A request for *removal* has been made for the following resource:

VIRGINIA

Norfolk Independent City

West, John T., School, 1435 Bolton St., Norfolk (Independent City), 00000315

[FR Doc. E6–14609 Filed 9–1–06; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before August 26, 2006. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by September 20, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

ARIZONA

Maricopa County

Wichenburg—Boetto House, 225 S. Washington St., Wichenburg, 06000912

ARKANSAS

Arkansas County

Tichnor Rice Dryer and Storage Building, (Mixed Masonry Buildings of Silas Owens, Sr. MPS) 1030 AR 44, Tichnor, 06000911

Calhoun County

Hampton Waterworks, (New Deal Recovery Efforts in Arkansas MPS) Hunt St., W of Lee St., Hampton, 06000909

Chicot County

Eudora City Hall, (New Deal Recovery Efforts in Arkansas MPS) 239 S. Main St., Eudora, 06000910

Clark County

US 67 Rest Area, Old, (New Deal Recovery Efforts in Arkansas MPS) West side of Old US 67, approx. 0.5 mi. S of Middleton, Curtis, 06000907

Ouachita County

Bearden Waterworks, (New Deal Recovery Efforts in Arkansas MPS) Jct. of N. 2nd and N. Cedar, Bearden, 06000908

St. Francis County

Hughes Water Tower, (New Deal Recovery Efforts in Arkansas MPS) Church St., Hughes, 06000905

Stone County

Mountain View Waterworks, (New Deal Recovery Efforts in Arkansas MPS) Jct. of Gaylor St. and King St., Mountain View, 06000906

CALIFORNIA

Los Angeles County

Beverly Hills Women's Club, 1700 Chevy Chase Dr., Beverly Hills, 06000914

Sacramento County

Fair Oaks Bridge, Old, Crosses America R. at Bridge St. to American R Pkwy, N of Upper Sunrise Dr. in Gold R, Fair Oaks, 06000913

Sonoma County

Ellis—Martin House, 1197 E. Washington St., Petaluma, 06000915

COLORADO

Adams County

Adams County Courthouse, 22 S 4th Ave., Brighton, 06000916

FLORIDA

Lake County

Edge House, 1218 W. Broad St., Groveland, 06000917

Martin County

Trapper Nelson Zoo Historic District, 16450 SE Federal Hwy., Hobe Sound, 06000918

MAINE

Aroostook County

Oakfield Grange, #414, 89 Ridge Rd., Oakfield, 06000920

Cumberland County

Eight Maine Regiment Memorial, 13 Eighth Main Ave., Peaks Island, 06000919

Kennebec County

Clark, Edmund and Rachel, Homestead, Address Restricted, China, 06000921

Waldo County

Ulmer, George, House, 3 S. Cobbtown Rd., Lincolnville, 06000922

SOUTH DAKOTA

Brown County

US Post Office and Courthouse—Aberdeen, 102 4th Ave. SE, Aberdeen, 06000931

TEXAS

Carson County

Route 66, TX 207 to I–40, (Route 66 in Texas MPS) Texas Farm Rd. 2161, from I–40 to TX 207, Conway, 06000924

Harris County

Farrar, Roy and Margaret, House, 511 Lovett Blvd., Houston, 06000923

Matagorda County

Hensley—Gusman House, 2120 Sixth St., Bay City, 06000927

Oldham County

Vega Motel, (Route 66 in Texas MPS) 1005 Vega Blvd., Vega, 06000926

Wheeler County

Route 66 Bridge over the Chicago, Rock Island and Gulf Railroad, (Route 66 in Texas MPS)I–40 south frontage road over the former CRI&G RR ROW, Shamrock, 06000925

UTAH

Salt Lake County

Murray Downtown Historic District, (Murray City, Utah MPS) Roughly bounded by 4800 South, Popkar St., Vine St. and Center St., Murray, 06000928

Seventh-day Adventist Meetinghouse and School, 1840 S. 800 East, Salt Lake City, 06000930

Walker Bank Building, 175 S. Main St., Salt Lake City, 06000929

[FR Doc. E6–14612 Filed 9–1–06; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Upper Truckee River Restoration and Golf Course Relocation Project, El Dorado County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement/environmental impact statement/environmental impact report (EIS/EIS/EIR) and notice of scoping meetings.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA), the Tahoe Regional Planning Agency (TRPA) Compact and Chapter 5 of the TRPA Code of Ordinances, and the California Environmental Quality Act (CEQA), the Department of the Interior, Bureau of Reclamation (Reclamation), the TRPA, and the California Department of Parks and Recreation (State Parks) intend to prepare a joint EIS/EIS/EIR. The EIS/EIS/EIR would evaluate a restoration project along the reach of the Upper Truckee River that extends from its entry point at the southern boundary of Washoe Meadows State Park (SP) to that point just west of U.S. Highway 50 (U.S. 50) where the river exits Lake Valley State Recreation Area (SRA).

Two public scoping meetings will be held to solicit comments from interested parties to assist in determining the scope of the environmental analysis, including the alternatives to be addressed, and to identify the significant environmental issues related to the proposed action.

DATES: The public scoping meeting dates are:

- Tuesday, September 26, 2006, 12 to 2 p.m., U.S. Forest Service (USFS) Lake Tahoe Basin Management Unit Offices in South Lake Tahoe, California.
- Tuesday, September 26, 2006, 6 to 8 p.m., USFS Lake Tahoe Basin

Management Unit Offices in South Lake Tahoe, California.

In addition, the proposed project will be an agenda item at the following TRPA meetings:

• Wednesday, September 13, 2006, TRPA Advisory Planning Commission Meeting, TRPA's Governing Board Room in Stateline, Nevada (See agenda at *http://www.trpa.org/default.aspx?tabid=259*).

• Wednesday, September 27, 2006, TRPA Governing Board Meeting, North Tahoe Conference Center in Kings Beach, California. (See agenda at *http://www.trpa.org/default.aspx?tabid=258*).

All comments must be received by October 6, 2006.

ADDRESSES: The scoping meetings will be held at:

• USFS Lake Tahoe Basin Management Unit Offices, 35 College Drive, South Lake Tahoe, CA 96150

• Governing Board Room, 128 Market Street, Stateline, NV 89449

• North Tahoe Conference Center, 8318 North Lake Tahoe Boulevard, Kings Beach, CA 96143

Written comments on the scope of the environmental document, alternatives, and impacts to be considered should be mailed to Mr. Paul Nielsen, Project Manager, Tahoe Regional Planning Agency, P.O. Box 5310, Stateline, NV 89449. If you would like to be included on the EIS/EIS/EIR mailing list, please contact Ms. Cyndie Walck by e-mail at *utproject@parks.ca.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Myrnie Mayville, Environmental Specialist, Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Room E–2606, Sacramento, CA, 95825–1898, (916) 978–5037; Mr. Paul Nielsen at the above address or (775) 588–4547 ext. 249, *utproject@trpa.org*; or Ms. Cyndie Walck, State of California Department of Parks and Recreation, Sierra District, P.O. Box 16, Tahoe City, CA, 96145, (530) 581–0925, *utproject@parks.ca.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Upper Truckee River has been substantially altered by land practices since European settlement in the Lake Tahoe Basin. Comstock Era timber harvest activities increased erosion and flooding, and the transport of logs on the river required straightening of the channel. Farming and ranching practices further altered the channel and surrounding floodplain. In many locations, particularly in the lower portion of the reach downstream of Meyers, the channel was straightened and enlarged to protect or improve farming operations. The floodplain adjacent to the river was also recontoured during the construction of the Lake Tahoe Golf Course. The channel has incised and is experiencing high rates of bed and bank erosion. These historic modifications have degraded the ecologic and geomorphic processes and functions of the Upper Truckee River, contributing nutrient and suspended sediment discharge to Lake Tahoe and thus decreasing its clarity.

State Parks owns most of the land adjacent to the river reach downstream of the U.S. 50 bridge crossing at Meyers (near Chilcothe Street) to the point just upstream of the Elks Club near the intersection of Sawmill Road and U.S. 50. The State Parks property includes Washoe Meadows SP (State Park) and Lake Valley SRA (State Recreation Area), which includes Lake Tahoe Golf Course. While several other restoration projects are currently being planned for other reaches of the Upper Truckee River, the golf course reach was identified as the greatest opportunity for rehabilitation in the ''Upper Truckee River Upper Reach Environmental Assessment Report'' prepared for Reclamation and the Tahoe Resource Conservation District (TRCD), because it presents an opportunity for full restoration and there are less constraints on project planning and implementation due to public ownership by State Parks. The Environmental Assessment Report recommended four river treatment options including: (1) No action, (2) hard engineering or engineered stabilization, (3) creation of an inset floodplain and, (4) full geomorphic restoration. Three of the four alternatives to be analyzed in this EIS/EIS/EIR were derived from these original alternatives.

Goals and Objectives

The following goals and objectives were developed for the proposed action:

• Restore, to the extent feasible, natural geomorphic processes that sustain channel and floodplain morphology.

• Restore, to the extent feasible, ecosystem function in terms of ecological processes and aquatic and riparian habitat quality.

• Reduce erosion and improve water quality including reduction of the reach's contribution of suspended sediment and nutrient loading in the Upper Truckee River and Lake Tahoe.

• Minimize and mitigate short-term water quality and other environmental impacts during construction.

• Improve the golf course layout, infrastructure, and management to reduce the environmental impact of the golf course on the river's water quality and riparian habitat by integrating environmentally-sensitive design concepts.

• Maintain golf recreation opportunity and quality of play at a championship level.

• In the stream environment zone, reduce the area occupied by the golf course and improve the quality and increase the extent of riparian and meadow habitat.

• Maintain revenue level of the golf course.

• Avoid any increase in flood hazard to private property.

• Avoid any increase in safety hazards to golf course and other recreation users.

• Provide opportunities for informal, non-vehicular recreation.

Proposed Action and Alternatives

The proposed restoration project would require relocation of a portion of the Lake Tahoe Golf Course to allow for restoration of the river, reduce the area of stream environment zone occupied by the golf course, and allow for establishment of a buffer area between the golf course and the river. The proposed action also includes realigning the boundaries of Washoe Meadows SP and Lake Valley SRA, so restored habitat areas are within the state park and the relocated golf course holes are located entirely within the state recreation area.

The following alternatives will be considered at an equal level of detail in the EIS/EIS/EIR: Alternative 1, No Project/No Action; Alternative 2, Geomorphic Restoration with 18-hole Golf Course (Proposed Action); Alternative 3, Geomorphic Restoration with 9-hole Golf Course; and Alternative 4, Engineered Stabilization (In Place). With Alternative 1, existing conditions on the project site would be projected into the future. Alternative 2 would include restoring the channel to a natural balanced condition that improves geomorphic function and habitat, relocating a portion of the Lake Tahoe Golf Course holes to the west side of the river, reconfiguring and upgrading the remaining golf course holes on the east side of the river, restoring the riparian/floodplain area where the golf course holes would be removed from the river corridor, removing the golf course bridges that cross the Upper Truckee River and replacing them with a single bridge crossing near the existing Hole 6 Bridge, and revising park unit boundaries and ''trading'' land between Washoe Meadows SP and Lake Valley SRA by realigning their boundaries. Alternative

3 would include the same river treatment as with Alternative 2, reconfiguring and upgrading a 9-hole golf course on the east side of the river, and eliminating all golf course bridges. Alternative 4 would install bank protection (rip rap) and grade controls (rock weirs) that ''lock'' the river in its current alignment and elevation, incorporate bioengineering with native riparian vegetation, include selection of treatment areas to stabilize the river and minimize erosion, and leave the existing 18-hole golf course unchanged.

Potential Federal involvement may include the approval of the proposed action and partial funding of the river restoration component of the proposed action.

Additional Information

The environmental review will be conducted pursuant to NEPA, CEQA, TRPA's Compact and Chapter 5 of the TRPA Code of Ordinances, the Federal and state Endangered Species Acts, and other applicable laws, to analyze the potential environmental impacts of implementing a range of feasible alternatives. Public input on the range of alternatives proposed for detailed consideration will be sought through the public scoping process.

The EIS/EIS/EIR will assess potential impacts to any Indian Trust Assets (ITAs). Input about concerns or issues related to ITAs is requested from potentially affected Federally-recognized Indian Tribes and individual Indians.

Our practice is to make comments, including names, home addresses, home phone numbers, and e-mail addresses of respondents, available for public review. Individual respondents may request that we withhold their names and/or home addresses, etc., but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: August 29, 2006.

Michael Nepstad,

Acting Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. E6–14625 Filed 9–1–06; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–06–053]

Government in the Sunshine Act Meeting; Rescheduling of Government in the Sunshine Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

ORIGINAL DATE AND TIME: September 1, 2006 at 9:30 a.m.

NEW DATE AND TIME: September 6, 2006 at 1 p.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

In accordance with 19 CFR 201.35(d)(1), the Commission has determined to change the day and time for the meeting of September 1, 2006 at 9:30 a.m. to September 6, 2006 at 1 p.m. All agenda items remain the same. Earlier notice of this change was not possible.

Issued: August 31, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 06–7450 Filed 8–31–06; 2:29 pm]

BILLING CODE 7020–02–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–06–052]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 12, 2006 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–683 (Second Review) (Fresh Garlic from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before September 28, 2006).
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: August 31, 2006.

By order of the Comission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 06–7451 Filed 8–31–06; 2:29 pm]

BILLING CODE 7020–02–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,845]

Airtex Products, Marked Three, AR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 4, 2006 in response to a petition filed by the Department of Workforce Services of the State of Arkansas on behalf of workers at Airtex Products, Marked Three, Arkansas.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 24th day of August 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–14594 Filed 9–1–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,985]

Bristol Compressors, a Subsidiary of York International, a Johnson Controls Company, Bristol, VA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on June 30, 2006, applicable

to workers of Bristol Compressors, a subsidiary of York International, a Johnson Controls Company, Bristol, Virginia. The notice was published in the **Federal Register** on July 17, 2006 (71 FR 40550).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of compressors.

New findings show that there was a previous certification, TA–W–53,659, issued on January 7, 2004, for workers of Bristol Compressors, Inc., a subsidiary of York International Corporation, Bristol, Virginia who were engaged in employment related to the production of compressors. That certification expires January 7, 2006. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from March 2, 2005 to January 8, 2006, for workers of the subject firm.

The amended notice applicable to TA-W–58,985 is hereby issued as follows:

All workers of Bristol Compressors, a subsidiary of York International, a Johnson Controls Company, Bristol, Virginia, who became totally or partially separated from employment on or after January 8, 2006, through June 30, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 29th day of August 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–14591 Filed 9–1–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,765]

Indiana Tube Corporation, Evansville, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 21, 2006 in response to a petition filed by a company official on behalf of workers at Indiana Tube Corporation, Evansville, Indiana.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 24th day of August 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–14593 Filed 9–1–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,436]

Jacquard, LLC, Burlington House Division, Cliffside, NC; Notice of Revised Determination on Reconsideration

On July 20, 2006, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on July 31, 2006 (71 FR 43214).

The initial investigation resulted in a negative determination signed on June 13, 2006 based on the finding that the subject firm did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. Significant number or proportion of the workers in a firm or appropriate subdivision thereof, means that at least three workers with a workforce of fewer than 50 workers or 5 percent of the workers with a workforce of 50 or more. The denial notice was published in the **Federal Register** on July 14, 2006 (71 FR 40158).

In the request for reconsideration, the petitioner provided additional information regarding the subject firm's employment numbers and requested an investigation relating to the fact that a significant number or proportion of workers at the subject firm are threatened to become separated from employment.

A review of the additional information determined that the workers of the subject firm may be eligible for Trade Adjustment Assistance on the basis of an employment decline that took place during the period relevant to the investigation and threats of further separations in the coming months; furthermore, sales and production decreased during the relevant period.

The Department conducted a survey of subject firm's major declining customers, which revealed customers increased their reliance on jacquard fabric during the relevant period. Additionally, the customers' declines in subject firm purchases coincided with the subject firm's sales decline.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

The investigation further revealed that the workers of the subject firm were certified eligible to apply for trade adjustment assistance as adversely affected secondary workers as suppliers of jacquard fabric to a trade certified customer, under petition number TA–W–54,813, which expired on May 21, 2006.

Conclusion

After careful review of the facts obtained in the investigation, I determine that increases of imports of articles like or directly competitive with jacquard fabric produced at Jacquard, LLC, Burlington House Division, Cliffside, North Carolina contributed importantly to the total or partial separation of workers and to the decline in sales or production at that firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

All workers of Jacquard, LLC, Burlington House Division, Cliffside, North Carolina, who became totally or partially separated from employment on or after May 22, 2006 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 29th day of August 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–14592 Filed 9–1–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,050]

Merrill Corporation, St. Paul, MN; Notice of Negative Determination on Remand

On May 17, 2006, the United States Court of International Trade (USCIT) remanded *Former Employees of Merrill Corporation* v. *Elaine Chao, U.S. Secretary of Labor,* Court No. 03–00662, to the Department of Labor (Department) for further investigation, in light of the Department's Notice of Revised Determination on Remand for Lands' End, A Subsidiary of Sears Roebuck and Company, Business Outfitters CAD Operations, Dodgeville, Wisconsin (Lands' End), TA–W–56,688 (issued on March 24, 2006).

Plaintiffs, workers of Merrill Corporation, St. Paul, Minnesota (Merrill), created electronic documents for clients for filing with the U.S. Securities and Exchange Commission (SEC). Plaintiffs lost their jobs when Merrill shifted that work to India. The details of Merrill's business activities and the Plainitffs' responsibilities can be found in the **Federal Register** notices cited below.

The Department's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for the workers of Merrill was issued on July 2, 2003 and published in the **Federal Register** on July 22, 2003 (68 FR 43373). The Notice of Negative Determination on Remand for workers of Merrill was issued on April 2, 2004 and published in the **Federal Register** on April 16, 2004 (69 FR 20645). In both determinations, the Department denied the workers eligibility to apply for Trade Adjustment Assistance (TAA) because Merrill does not produce an ''article'' within the meaning of the Trade Act of 1974.

On November 17, 2005, the Department issued a Notice of Negative Determination on Reconsideration on Remand for workers of Merrill. The Notice was published in the **Federal Register** on December 7, 2005 (70 FR 72857). The Department determined that the workers are not eligible to apply for TAA because Merrill does not produce an ''article'' since electronic creations are not ''articles'' unless they are embodied in a physical medium. The Department also determined that even if Merrill produced an ''article,'' the uniqueness of each filing means that there cannot be any articles which are like or directly competitive with the ''articles'' created by Merrill and, consequently, there cannot be any increased imports of such articles.

In the Department's Lands' End determination, the Department stated that ''the Department has revised its policy to acknowledge that there are tangible and intangible articles and to clarify differences between intangible articles and services * * * Products that would have been considered an article if embodied in a physical medium will now be considered an article * * * Workers providing services that may result in the incidental production * * * however, are not engaged in the production of an article for the purposes of the Act.'' (71 FR 18357)

Applying the revised policy to the immediate case, the Department determines that Merrill provides a service, incidental to which Plaintiffs produce an intangible article. Under the revised policy, however, the incidental production of an article does not change the Department's treatment of workers who work for a firm that produces an article incidental to providing a service. Rather, the Lands' End determination reinforces this policy (''Workers providing services that may result in the incidental production * * * are not engaged in the production of an article for the purposes of the Act'').

The Department has consistently held that workers who work for a firm that provides a service, such as sales and repair, are not eligible for TAA benefits. The Department's policy was recently upheld by the USCIT in *Former Employees of Gale Group, Inc.*, 403 F.Supp.2d 1299 (CIT 2005).[1] In the *Gale* opinion, the USCIT established that workers in a service firm are not eligible to apply for benefits under the Trade Act. *Id.* at 1303.

During the third remand investigation, the Department confirmed that the subject workers manipulate information into a format required for filing with the SEC and that Merrill does not generate revenue by the sale of the filings. The Department also confirmed that the filings created by the subject workers adhere to the customer's specifications and accommodate the special needs dictated by the SEC. SSAR 8, 18.

As stated in the USCIT's *Gale* opinion, TAA is only available to workers in a firm engaged in production of an article. One significant factor that distinguishes a production firm from a service firm is that the former operates commercially as a manufacturing firm and generates its revenue from the sale of the manufactured articles; the manufacturer is in the business of making and selling an article. This is in contrast to a service firm that operates commercially as a service provider and generates its revenue from the provision of services. That an article is created incidental to the provision of the service does not make the service firm a production firm.

A commercial tax preparation firm that prepares and files tax forms with the Internal Revenue Service is in the business of providing tax-related services for a fee. The firm simply receives data from its client and places it into a format acceptable to the government. That the service may result in the creation of an article, a tax return, does not make it a production firm. The tax preparation firm is not selling its customers a tax return; rather, it is selling its expertise in correctly manipulating the customer's tax data into the proper form. Similarly, Merrill is in the business of providing financial document related services for a fee. It receives data from its clients and reformats it in a form acceptable to the government. The fact that its services may result in the incidental production of an article, an SEC filing, does not make Merrill a production firm.

Even if the Plaintiffs did produce an article for purposes of the Trade Act, they would not be eligible to apply for TAA because there was neither a shift of production to a qualified country nor increased imports of articles like or directly competitive with those produced at the subject facility.

Under the Department's interpretation of ''like or directly competitive,'' (29 CFR 90.2) ''like'' articles are those articles which are substantially identical in inherent or intrinsic characteristics and ''directly competitive'' articles are those articles which are substantially equivalent for commercial purposes (essentially interchangeable and adapted to the same uses), even though the articles may not be substantially identical in their inherent or intrinsic characteristics.

Given the nature of the SEC filings, there are no articles which are ''like'' or ''directly competitive'' to any single ''article'' created by Merrill because each electronic file is a unique document. Thus, there are no articles which are essentially interchangeable or

[1] The Plaintiffs in *Gale* appealed the decision to the United States Court of Appeals for the Federal Circuit. Upon further investigation, after the *Lands End* determination, the Department concluded that Gale Group, Inc. produced an article, not incidental to the provision of a service. The Department sought a remand and certified the plaintiffs. *See Notice of Revised Determination on Remand for Gale Group, Inc.,* TA–W–54, 434 (July 19, 2006). The Department's decision in *Gale* was not a repudiation of the USCIT's decision in *Gale.*

can be adapted to the same use as a Merrill document, and there are no articles ''like or directly competitive'' with any Merrill ''article.'' Because there are no articles which are like or directly competitive with those produced by the subject company, there cannot be any imports, much less increased imports. Therefore, neither Section 222(a)(2)(A) nor Section 222(a)(2)(B) of the Trade Act, as amended, has been satisfied.

The Department determines that the revised policy articulated in Lands' End does not affect Plaintiffs' claim and determines that the subject workers are not eligible to apply for TAA.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Merrill Corporation, St. Paul, Minnesota.

Signed at Washington, DC, this 24th day of August 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–14590 Filed 9–1–06; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–063)]

National Environmental Policy Act; Mars Science Laboratory Mission

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of draft environmental impact statement (DEIS) for implementation of the Mars Science Laboratory (MSL) mission.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended, (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA policy and procedures (14 CFR Part 1216 subpart 1216.3), NASA has prepared and issued a DEIS for the proposed MSL mission. The DEIS addresses the potential environmental impacts associated with implementing the mission. The purpose of this proposal is to explore the surface of Mars with a mobile science laboratory (rover). This environmental impact statement (EIS) is a tiered document (Tier 2 EIS) under NASA's Programmatic EIS for the Mars Exploration Program (MEP). The DEIS presents descriptions of the proposed MSL mission, spacecraft, and candidate launch vehicle; an overview of the affected environment at and near the launch site; and the potential environmental consequences associated with the Proposed Action and alternatives, including the No Action Alternative.

The MSL mission is planned for launch during the September–November 2009 time period from Cape Canaveral Air Force Station (CCAFS), Florida, on an expendable launch vehicle. The arrival date at Mars would range from mid-July 2010 to not later than mid-October 2010, depending on the exact launch date and selected landing site, yet to be determined, on the surface of Mars. Using advanced instrumentation, the MSL rover would acquire significant, detailed information regarding the habitability of Mars from a scientifically promising location on the surface. The mission would also fulfill NASA's strategic technology goals of increasing the mass of science payloads delivered to the surface of Mars, expanding access to higher and lower latitudes, increasing precision landing capability, and increasing traverse capability (mobility) to distances on the order of several kilometers.

The DEIS evaluates two alternatives in addition to the No Action Alternative. Under the Proposed Action (Alternative 1), the proposed MSL rover would utilize a radioisotope power system, a Multi-Mission Radioisotope Thermoelectric Generator (MMRTG), as its primary source of electrical power to operate and conduct science on the surface of Mars. Under Alternative 2, an MSL rover would utilize solar energy as its primary source of electrical power to operate and conduct science on the surface of Mars.

DATES: Written comments on the DEIS must be received by NASA no later than October 23, 2006, or 45 days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's notice of availability of the MSL DEIS, whichever is later.

ADDRESSES: Comments submitted via first class, registered, or certified mail should be addressed to Mark R. Dahl, Mail Suite 3X63, Planetary Science Division, Science Mission Directorate, NASA Headquarters, 300 E Street SW., Washington, DC 20546–0001. Comments submitted via express mail, a commercial deliverer, or courier service should be addressed to Mark R. Dahl, Mail Suite 3X63, Planetary Science Division, Science Mission Directorate, Attn: Receiving & Inspection (Rear of Building), NASA Headquarters, 300 E Street SW., Washington, DC 20024–3210. While hard copy comments are preferred, comments may be sent by electronic mail to *mep.nepa@hq.nasa.gov.*

The DEIS may be reviewed at the following locations:

(a) NASA Headquarters, Library, Room 1J20, 300 E Street, SW., Washington, DC 20546;

(b) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109.

Hard copies of the DEIS also may be examined at other NASA Centers (see **SUPPLEMENTARY INFORMATION** below).

Limited hard copies of the DEIS are available, on a first request basis, by contacting Mark R. Dahl at the address, telephone number, or electronic mail address indicated herein. The DEIS is also available in Adobe® portable document format at *http://spacescience.nasa.gov/admin/pubs/msl/index.htm.*

FOR FURTHER INFORMATION CONTACT: Mark R. Dahl, Planetary Science Division, Science Mission Directorate, NASA Headquarters, Washington, DC 20546–0001, telephone 202–358–4800, or electronic mail *mep.nepa@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION: The MEP is currently being implemented as a sustained series of flight missions to Mars, each of which will provide important, focused scientific return. The MEP is fundamentally a science driven program whose focus is on understanding and characterizing Mars as a dynamic system and ultimately addressing whether life is or was ever a part of that system. The core MEP addresses the highest priority scientific investigations directly related to the Program goals and objectives. MSL investigations would be a means of addressing several of the high-priority scientific investigations recommended to NASA by the planetary science community.

The overall scientific goals of the MSL mission can be divided into four areas: (1) Assess the biological potential of at least one selected site on Mars, (2) characterize the geology and geochemistry of the landing region at all appropriate spatial scales, (3) investigate planetary processes of relevance to past habitability, and (4) characterize the broad spectrum of the Martian surface radiation environment. The following specific objectives are planned for the mission to address these goals:

—Determine the nature and inventory of organic carbon compounds;
—Inventory the chemical building blocks of life (carbon, hydrogen, nitrogen, oxygen, phosphorus, and sulfur);
—Identify features that may represent the effects of biological processes;
—Investigate the chemical, isotopic, and mineralogical composition of Martian surface and near-surface geological materials;
—Interpret the processes that have formed and modified rocks and regolith;
—assess long-timescale (*i.e.*, 4-billion-year) atmospheric evolution processes; and
—Determine the present state, distribution, and cycling of water and carbon dioxide.

The proposed MSL mission would utilize a rover with advanced instrumentation to acquire significant detailed information regarding the habitability of Mars from a scientifically promising location. The mission would also fulfill NASA's strategic technology goals of increasing the mass of science payloads delivered to the surface of Mars, expanding access to higher and lower latitudes, increasing precision landing capability, and increasing traverse capability (mobility) to distances on the order of several kilometers.

Mobility is essential because evidence for past or present life on Mars will very likely not be so abundant or widespread that it will be available in the immediate vicinity of the selected landing site. Without the mobility necessary to conduct in situ exploration, it may not be possible to uniquely characterize a target location.

The Proposed Action (Alternative 1) consists of continuing preparations for and implementing the MSL mission to Mars. The proposed MSL rover would utilize a MMRTG as its primary source of electrical power to operate and conduct science on the surface of Mars. Under Alternative 2, NASA would discontinue preparations for the Proposed Action (Alternative 1) and implement an alternative MSL mission to Mars. The alternative MSL rover would utilize solar energy as its primary source of electrical power to operate and conduct science on the surface of Mars. With either the Proposed Action (Alternative 1) or Alternative 2, the MSL spacecraft would be launched on board an expendable launch vehicle from CCAFS, Florida during the September–November 2009 time period. Under the No Action Alternative, NASA would discontinue preparations for the MSL mission, and the spacecraft would not be launched. With either the Proposed Action (Alternative 1) or Alternative 2, the potentially affected environment for a normal launch includes the area at and in the vicinity of the launch site, CCAFS in Florida. The environmental impacts of a normal launch of the mission for either alternative would be associated principally with the exhaust emissions from the expendable launch vehicle. These effects would include: (1) Short-term impacts on air quality within the exhaust cloud and near the launch pad, and (2) the potential for acidic deposition on the vegetation and surface water bodies at and near the launch complex.

Potential launch accidents could result in the release of some of the radioactive material on board the spacecraft. The MMRTG planned for use on the rover for the Proposed Action (Alternative 1) would use plutonium dioxide, with a radioisotope inventory of approximately 58,700 curies, to provide electrical power. For either alternative, two of the science instruments on the rover would use small quantities of radioactive material, totaling approximately two curies, for instrument calibration or science experiments.

The U.S. Department of Energy (DOE), in cooperation with NASA, has performed a risk assessment of potential accidents for the MSL mission. This assessment used a methodology refined through applications to the Galileo, Ulysses, Cassini, Mars Exploration Rover, and New Horizons missions. DOE's risk assessment for the proposed MSL mission indicates that in the event of a launch accident the expected impacts of released radioactive material at and in the vicinity of the launch area, and on a global basis, would be small. Alternative 2 would not involve any MMRTG-associated radiological risks since an MMRTG would not be used for this mission alternative.

NASA will hold public comment meetings during which the public is invited to participate in an open exchange of information and submission of comments on the DEIS. Each public meeting will begin with an opportunity for informal discussions with project personnel, followed by a brief NASA presentation on the MSL mission, and conclude with the submission of formal comments, both written and oral. These meetings will be held on:

—September 27, 2006, from 1 p.m.–4 p.m. and 6 p.m.–9 p.m. at the Florida Solar Energy Center; H. George Carrison Auditorium; 1679 Clearlake Road, Cocoa, Florida 32922;
—October 10, 2006, from 1 p.m.–4 p.m. at the Hyatt Regency Washington on Capitol Hill; Congressional Room A; 400 New Jersey Avenue, NW., Washington, DC 20001.

Further information on the public meetings can be obtained by contacting Mark R. Dahl at the address or telephone number indicated herein, or by visiting the MSL DEIS Web site at: *http://spacescience.nasa.gov/admin/pubs/msl/index.htm.* Advanced registration for attending any of the meetings is not required.

The FEIS may be examined at the following NASA locations by contacting the pertinent Freedom of Information Office:

(a) NASA, Ames Research Center, Moffett Field, CA 94035 (650–604–3273);

(b) NASA, Dryden Flight Research Center, Edwards, CA 93523 (661–276–2704);

(c) NASA, Glenn Research Center at Lewis Field, Cleveland, OH 44135 (216–433–2813);

(d) NASA, Goddard Space Flight Center, Greenbelt, MD 20771 (301–286–4721);

(e) NASA, Johnson Space Center, Houston, TX 77058 (281–483–8612);

(f) NASA, Kennedy Space Center, FL 32899 (321–867–9280);

(g) NASA, Langley Research Center, Hampton, VA 23681 (757–864–2497);

(h) NASA, Marshall Space Flight Center, Huntsville, AL 35812 (256–544–1837); and

(i) NASA, Stennis Space Center, MS 39529 (228–688–2118).

Any person, organization, or governmental body or agency interested in receiving a copy of NASA's Record of Decision after it is rendered should so indicate by mail or electronic mail to Mr. Dahl at the addresses provided above.

Written public input and comments on alternatives and environmental issues and concerns associated with the proposed Mars Science Laboratory mission are hereby requested.

Olga M. Dominguez,

Assistant Administrator for Infrastructure and Administration.

[FR Doc. E6–14649 Filed 9–1–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects.

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by November 6, 2006 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne Plimpton, Acting Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone 703–292–7556; or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. to 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the date collection instrument and instructions from Ms. Hines.

SUPPLEMENTARY INFORMATION:

Title of Collection: Model Institutions for Excellence Graduates' Survey.

OMB Approval Number: 3145–NEW.

Expiration Date of Approval: Not Applicable.

Type of Request: Intent to seek approval to establish an information collection for three years.

Proposed Project: The Division of Human Resource Development (EHR/HRD) of the National Science Foundation (NSF) has requested impact information on the Model Institutions for Excellence (MIE) Program. Jointly funded by NSF and the National Aeronautics and Space Administration (NASA), the MIE Program funded eight minority-service undergraduate institutions to promote under represented minority participation in the fields of science, technology, engineering and mathematics (STEM). Now NSF seeks follow-up information on program graduates to determine whether or not they have continued their education in STEM graduate programs and/or STEM employment, and how the MIE program influence their decisions with respect to graduate school and employment. NSF proposed a one-time on-line survey of the 931 MIE students who received bachelor's degrees in a STEM field from one of the MIE colleges between 2002 through 2005.

Estimate of Burden: The Foundation estimates that, on average, 30 minutes per respondent will be required to complete the survey, for a total of 465.5 hours for all respondents. Respondents from the eight institutions that received NSF MIE support will complete this survey once.

Respondents: STEM graduates from MIE programs.

Estimated Number of Responses: 931.

Estimates Total Annual Burden on Respondents: 465.5 hours.

Dated: August 29, 2006.

Suzanne Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 06–7388 Filed 9–1–06; 8:45 am]

BILLING CODE 7555–01–M

PENSION BENEFIT GUARANTY CORPORATION

Request for Extension of Approval of a Collection of Information Under the Paperwork Reduction Act; Comment Request; Customer Satisfaction Surveys and Focus Groups

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation is requesting that the Office of Management and Budget extend its approval of a collection of information under the Paperwork Reduction Act. The purpose of the information collection, which will be conducted through focus groups and surveys over a three-year period, is to help the PBGC assess the efficiency and effectiveness with which it serves its customers and to design actions to address identified problems.

DATES: Comments should be submitted by October 5, 2006.

ADDRESSES: Comments may be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attn: Desk Officer for Pension Benefit Guaranty Corporation, Washinton, DC 20503. Copies of the request for extension (including the collection of information) may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at 1200 K Street, NW., 11th Floor, Washington, DC 20005–4026, or by visiting or calling (202–326–4040) the Disclosure Division during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Thomas H. Gabriel, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB contorl number.

The PBGC is requesting that OMB extend its approval, for a three-year period, of a generic collection of information consisting of customer satisfaction focus groups and surveys (OMB No. 1212–0053; expires October 31, 2006). The information collection will further the goals of Executive Order 12862, Setting Customer Service Standards, which states the Federal Government must seek to provide ''the highest quality of service delivered to customers by private organizations providing a comparable or analogous service.''

The PBGC uses customer satisfaction focus groups and surveys to find out about the needs and expectations of its customers and assess how well it is meeting those needs and expectations. By keeping these avenues of communication open, the PBGC can continually improve service to its customers, including plan participants and beneficiaries, plan sponsors and their affiliates, plan administrators, pension practitioners, and others involved in the establishment, operation and termination of plans covered by the PBGC's insurance program. Because the areas of concern to the PBGC and its customers vary and may quickly change, it is important that the PBGC have the ability to evaluate customer concerns quickly by developing new vehicles for gathering information under this generic approval. The focus groups and surveys will provide important information on customer attitudes about the delivery and quality of agency services and will

be used as part of an ongoing process to improve PBGC programs.

Participation in the focus groups and surveys will be voluntary. The PBGC estimates that the annual burden for this collection of information will total 1,400 hours for 4,200 respondents. The PBGC further estimates that the cost to respondents per burden hour will average $65, resulting in a total cost of $91,000 ($65 × 1,400). The PBGC will consult with OMB regarding each specific information collection during the approval period.

On May 8, 2006, the PBGC published in the **Federal Register** a notice of intention to request extension of OMB approval of this collection. No comments were received in response to the notice.

Issued at Washington, DC, this 30th day of August 2006.

Cris Birch,

Acting Chief Information Officer, Pension Benefit Guaranty Corporation.

[FR Doc. 06–7424 Filed 9–1–06; 8:45 am]

BILLING CODE 7709–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–5; SEC File No. 270–155; OMB Control No. 3235–0123.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–5 (17 CFR 240.17a–5) is the basic financial reporting rule for brokers and dealers.[1] The Rule requires the filing of the Financial and Operational Combined Uniform Single Report (''FOCUS Report'') on Form X–17A–5 (17 CFR 240.15c3–1e), which was the result of years of study and comments by representatives of the securities industry through advisory committees and through the normal rule proposal methods. The FOCUS Report was designed to eliminate the overlapping regulatory reports required by various self-regulatory organizations and the Commission and to reduce reporting burdens as much as possible. The Rule also requires the filing of an annual audited report of financial statements.

The FOCUS Report consists of: (1) Part I, which is a monthly report that must be filed by brokers or dealers that clear transactions or carry customer securities; (2) one of three alternative quarterly reports: Part II, which must be filed by brokers or dealers that clear transactions or carry customer securities; Part IIA, which must be filed by brokers or dealers that do not clear transactions or carry customer securities; and Part IIB, which must be filed by specialized broker-dealers registered with the Commission as OTC derivatives dealers;[2] (3) supplemental schedules, which must be filed annually; and (4) a facing page, which must be filed with the annual audited report of financial statements. Under the Rule, a broker or dealer that computes certain of its capital charges in accordance with Appendix E to Exchange Act Rule 15c3–1 (17 CFR 240.15c3–1e) must file additional monthly, quarterly, and annual reports with the Commission.

The variation in the size and complexity of brokers and dealers subject to Rule 17a–5 and the differences in the FOCUS Report forms that must be filed under the Rule make it difficult to calculate the cost of compliance. However, we estimate that, on average, each report will require approximately 12 hours. At year-end 2005, the Commission estimates that there were approximately 6,200 brokers or dealers, and that of those firms, there were approximately 600 brokers or dealers that clear transactions or carry customer securities. In addition, approximately 400 firms filed annual reports. The Commission therefore estimates that approximately 600 firms filed monthly reports, approximately 5,600 firms filed quarterly reports, and approximately 400 firms filed annual reports. In addition, approximately 6,200 firms filed annual audited reports. As a result, there were approximately 36,200 total annual responses ((600 × 12) + (5,600 × 4) + 400 + 6,200 = 36,200. This results in an estimated annual burden of 434,400 hours (36,200 annual responses × 12 hours = 434,400).

In addition, we estimate that approximately 11 brokers or dealers will elect to use Appendix E to Rule 15c3–1 to compute certain of their capital charges (as of June 2006, five brokers or dealers have elected to use Appendix E). We estimate that the average amount of time necessary to prepare and file the additional monthly reports that must be filed by these firms is about 4 hours per month, or approximately 48 hours per year; the average amount of time necessary to prepare and file the additional quarterly reports is about 8 hours per quarter, or approximately 32 hours per year; and the average amount of time necessary to prepare and file the additional supplemental reports with the annual audit required is approximately 40 hours per year. Consequently, we estimate that the total additional annual burden for these 11 brokers or dealers is approximately 1,320 hours ((48 + 32 + 40) × 11 = 1,320).

The Commission therefore estimates that the total annual burden under Rule 17a–5 is approximately 435,700 hours (434,400 + 1,320 = 435,720, rounded to 435,700).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to: R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312, or by e-mail to *PRA_Mailbox@sec.gov*. Comments must be submitted to the Office of Management and Budget within 60 days of this notice.

Dated: August 28, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–14596 Filed 9–1–06; 8:45 am]

BILLING CODE 8010–01–P

[1] Rule 17a–5(c) requires a broker or dealer to furnish certain of its financial information to customers and is subject to a separate PRA filing (OMB Control Number 3235–0199).

[2] Part IIB of Form X–17A–5 must be filed by OTC derivatives dealers under Exchange Act Rule 17a–12 and is subject to a separate PRA filing (OMB Control Number 3235–0498).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 5, 2006:

A closed meeting will be held on Thursday, September 7, 2006 at 2 p.m.

Commissioners, Counsels to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (6), 7(i)(A), (C), (D), and (E), (9)(ii), and (10) permit consideration of the scheduled matters at the closed meeting.

Commissioner Atkins, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting scheduled for Thursday, September 7, 2006 will be:

Formal orders of investigation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Litigation matters; and

Consideration of amicus participation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: August 30, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06–7442 Filed 8–31–06; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54379; File No. SR–CBOE–2006–66]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Regarding Market-Maker Appointments

August 28, 2006.

On July 11, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 8.3 to provide that in the event a Market-Maker is a nominee of a member organization or has registered the Market-Maker's membership for a member organization, the member organization with which the Market-Maker is associated would be permitted to request that the Exchange deem all class appointments be made to the member organization instead of to the individual Market-Maker.[3] In such a case, if an individual Market-Maker were no longer associated with a member organization, the class appointments would continue to be held by the member organization and not the individual Market-Maker. In the event a member organization did not request that the class appointments be held by the member organization, a Market-Maker's class appointments would continue to be held in the name of the individual Market-Maker and not the member organization with which the Market-Maker is associated. The proposed rule change was published for comment in the **Federal Register** on July 27, 2006.[4] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[5] and, in particular, the requirements of Section 6 of the Act[6] and the rules and regulations thereunder. The Commission specifically finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[7] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposal should provide more flexibility to Market-Maker organizations in structuring class appointments.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–CBOE–2006–66) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E6–14597 Filed 9–1–06; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] If such a request is made by a member organization, CBOE would consider that the submission of electronic quotations and orders would be made by and on behalf of the member organization with which the individual Market-Maker is associated. However, CBOE proposes that CBOE Rule 8.3 would state that the individual Market-Maker would continue to have all of the obligations of a Market-Maker under Exchange rules in these circumstances.

[4] *See* Securities Exchange Act Release No. 54184 (July 20, 2006), 71 FR 42690.

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54378; File No. SR–NASDAQ–2006–032]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Revise The Nasdaq Capital Market Listing Requirements

EFFECTIVE DATE: August 28, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 23, 2006, The NASDAQ Stock Market LLC (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On August 28, 2006, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, Nasdaq makes clarifying changes to the rule text in the Nasdaq Capital

Continued

Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to revise certain listing requirements applicable to the Nasdaq Capital Market. The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in [brackets].[4]

* * * * *

4200. Definitions.

(a) For purposes of the Rule 4000 Series, unless the context requires otherwise:

(1) No change.

(2) [Reserved

(3) Reserved

(4)] ''Best efforts offering'' means an offering of securities by members of a selling group under an agreement which imposes no financial commitment on the members of such group to purchase any such securities except as they may elect to do so.

[(5) Reserved

(6) ''Cash available for distribution'' means cash flow of a limited partnership less amount set aside for restoration or creation of reserves.]

[(7)] *(3)* ''Cash flow'' means cash funds provided from limited partnership operations, including lease payments on net leases from builders and sellers, without deduction for depreciation, but after deducting cash funds used to pay all other expenses, debt payments, capital improvements and replacements.

[(8)] *(4)* ''Consolidated Quotations Service'' (CQS) means the consolidated quotation collection system for securities listed on an exchange other than Nasdaq implementing SEC Rule 602.

[(9)] *(5)* ''Country of Domicile'' means the country under whose laws an issuer is organized or incorporated.

(6) ''Covered security'' means a security described in Section 18(b) of the Securities Act of 1933.

(7) Reserved

(8) Reserved

(9) Reserved

(10)—(39) No change.

(b)—(c) No change.

* * * * *

4310. Listing Requirements for Domestic and Canadian Securities

To qualify for listing in Nasdaq, a security of a domestic or Canadian issuer shall satisfy all applicable requirements contained in paragraphs (a), (b), and (c) hereof. Issuers that meet these requirements, but that are not listed on the Nasdaq Global Market, are listed on the Nasdaq Capital Market.

(a) No change.

(b) No change.

(c) In addition to the requirements contained in paragraph (a) and (b) above, and unless otherwise indicated, a security shall satisfy the following criteria for listing on Nasdaq:

(1) No change

(2)[(A)] For initial listing, the issuer shall have *either*:

(A) (i) stockholders' equity of $5 million; *and*

(ii) a market value of publicly held shares of $15 million; and

(iii) an operating history of at least two years; or

(B) [(ii)] *(i) stockholders' equity of $4 million; and*

(ii) market value of listed securities of $50 million (currently traded issuers must meet this requirement and the bid price requirement under Rule 4310(c)(4) for 90 consecutive trading days prior to applying for listing); [or] *and*

(iii) a market value of publicly held shares of $15 million; or

(C) [(iii)] *(i) stockholders' equity of $4 million; and*

(ii) net income from continuing operations of $750,000 in the most recently completed fiscal year or in two of the last three most recently completed fiscal years; *and*

(iii) a market value of publicly held shares of $5 million.

[(B)] *(3)* For continued listing, the issuer shall maintain *either:*

(A) [(i)] stockholders' equity of $2.5 million; *or*

(B) [(ii)] market value of listed securities of $35 million; *or*

(C) [(iii)] net income from continuing operations of $500,000 in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

[(3) For initial listing, the issuer shall have an operating history of at least one year or a market value of listed securities of $50 million.]

(4) No change.

(5) *(A)* In the case of a convertible debt security, for initial listing, there shall be a principal amount outstanding of at least $10 million.

(B) In addition, for the initial listing of convertible debt, one of the following conditions must be satisfied:

(i) the issuer of the debt must have an equity security that is listed on Nasdaq, the American Stock Exchange or the New York Stock Exchange;

(ii) an issuer whose equity security is listed on Nasdaq, the American Stock Exchange or the New York Stock Exchange, directly or indirectly owns a majority interest in, or is under common control with, the issuer of the debt security, or has guaranteed the debt security;

(iii) a nationally recognized securities rating organization (an ''NRSRO'') has assigned a current rating to the debt security that is no lower than an S&P Corporation ''B'' rating or equivalent rating by another NRSRO; or,

(iv) if no NRSRO has assigned a rating to the issue, an NRSRO has currently assigned: (1) an investment grade rating to an immediately senior issue; or (2) a rating that is no lower than an S&P Corporation ''B'' rating, or an equivalent rating by another NRSRO, to a pari passu or junior issue.

(C) For continued listing *of a convertible debt security*, there shall be a principal amount outstanding of at least $5 million.

(6)(A) In the case of common stock, *for initial and continued listing,* there shall be at least 300 round lot holders of the security.

(B) In the case of preferred stock and secondary classes of common stock, *for initial and continued listing,* there shall be at least 100 round lot holders of the security, provided in each case that the issuer's common stock or common stock equivalent equity security [is] *must be* listed on [either] Nasdaq or [another national securities exchange] *be a covered security*. In the event the issuer's common stock or common stock equivalent security *either* is not listed on [either] Nasdaq or [another national securities exchange] *is not a covered security*, the preferred stock and/or secondary class of common stock may be listed on Nasdaq so long as the security satisfies the listing criteria for common stock.

(C) No change.

(7)(A) In the case of common stock, there shall be at least 1,000,000 publicly held shares for initial listing and 500,000 publicly held shares for continued listing. For initial listing such shares shall have a market value [of at least $5 million] *as provided in the applicable provision of Rule 4310(c)(2).* For continued listing such shares shall

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Market convertible debt listing standards. Nasdaq also makes clarifying changes to the purpose section regarding convertible debt, rights and warrants, and non-Canadian foreign securities and American Depository Receipts.

[4] Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at *http://www.complinet.com/nasdaq*. These rules became effective on August 1, 2006, when Nasdaq commenced operations as a national securities exchange for Nasdaq-listed securities. The rule text incorporates changes made by Amendment No. 1. *See id.*

have a market value of at least $1 million.

(B) In the case of preferred stock and secondary classes of common stock, there shall be at least 200,000 publicly held shares having a market value of at least $[2] *3.5* million for initial listing and 100,000 publicly held shares having a market value of [$500,000] *$1 million* for continued listing. In addition, the issuer's common stock or common stock equivalent security must be listed on [either] Nasdaq or [another national securities exchange] *be a covered security*. In the event the issuer's common stock or common stock equivalent security *either* is not listed on [either] Nasdaq or [another national securities exchange] *is not a covered security*, the preferred stock and/or secondary class of common stock may be traded on Nasdaq so long as the security satisfies the listing criteria for common stock.

(C) Shares held directly or indirectly by any officer or director of the issuer and by any person who is the beneficial owner of more than 10 percent of the total shares outstanding are not considered to be publicly held.

(8) No change.

(9)(A) In the case of rights and warrants, for initial listing only, there shall be at least [100,000] *400,000* issued and the underlying security [shall] *must* be listed on Nasdaq or [another national securities exchange] *be a covered security. For continued listing, the underlying security must remain listed on Nasdaq or be a covered security.*

(B) In the case of put warrants (that is, instruments that grant the holder the right to sell to the issuing company a specified number of shares of the Company's common stock, at a specified price until a specified period of time), for initial listing only, there shall be at least [100,000] *400,000* issued and the underlying security [shall] *must* be listed on Nasdaq or [another national securities exchange] *be a covered security. For continued listing, the underlying security must remain listed on Nasdaq or be a covered security.*

(C) No change.

(10)–(30) No change.

(d) No change.

4320. Listing Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

To qualify for listing on Nasdaq, a security of a non-Canadian foreign issuer, an American Depositary Receipt (ADR) or similar security issued in respect of a security of a foreign issuer shall satisfy the requirements of paragraphs (a), (b), and (e) of this Rule. Issuers that meet these requirements, but that are not listed on the Nasdaq Global Market, are listed on the Nasdaq Capital Market.

(a)–(d) No change.

(e) In addition to the requirements contained in paragraphs (a) and (b), the security shall satisfy the criteria set out in this subsection for listing on Nasdaq. In the case of ADRs, the underlying security will be considered when determining the ADR's qualification for initial or continued listing on Nasdaq.

(1) No change.

(2)(A) For initial listing, the issue shall *meet the requirements of Rule 4310(c)(2)(A), (B) or (C).* [have a minimum bid price of $4 and the issuer shall have:

(i) stockholders' equity of U.S. $5 million;

(ii) market value of listed securities of U.S. $50 million (currently traded issuers must meet this requirement for 90 consecutive trading days prior to applying for listing); or

(iii) net income from continuing operations of U.S. $750,000 in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.]

(B) For continued listing, the issuer shall *meet the requirements of Rule 4310(c)(3)(A), (B) or (C).* [maintain:

(i) stockholders' equity of U.S. $2.5 million;

(ii) market value of listed securities of U.S. $35 million; or

(iii) net income from continuing operations of U.S. $500,000 in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.]

(C) No change.

(D) No change.

(E) No change.

(3)*(A)* In the case of a convertible debt security, for initial listing, there shall be a principal amount outstanding of at least $10 million.

(B) In addition, for the initial listing of convertible debt, one of the following conditions must be satisfied:

(i) the issuer of the debt must have an equity security that is listed on Nasdaq, the American Stock Exchange or the New York Stock Exchange;

(ii) an issuer whose equity security is listed on Nasdaq, the American Stock Exchange or the New York Stock Exchange, directly or indirectly owns a majority interest in, or is under common control with, the issuer of the debt security, or has guaranteed the debt security;

(iii) a nationally recognized securities rating organization (an ''NRSRO'') has assigned a current rating to the debt security that is no lower than an S&P Corporation ''B'' rating or equivalent rating by another NRSRO; or,

(iv) if no NRSRO has assigned a rating to the issue, an NRSRO has currently assigned: (1) an investment grade rating to an immediately senior issue; or (2) a rating that is no lower than an S&P Corporation ''B'' rating, or an equivalent rating by another NRSRO, to a pari passu or junior issue.

(C) For continued listing *of a convertible debt security*, there shall be a principal amount outstanding of at least $5 million.

(4)(A) [There] *In the case of common stock, for initial and continued listing, there* shall be at least 300 round lot holders of the security.

(B) In the case of preferred stock and secondary classes of common stock, *for initial and continued listing,* there shall be at least 100 round lot holders of the security, provided in each case that the issuer's common stock or common stock equivalent equity security [is] *must be* listed on [either] Nasdaq or [another national securities exchange] *be a covered security.* In the event the issuer's common stock or common stock equivalent security *either* is not listed on [either] Nasdaq or [another national securities exchange] *is not a covered security*, the preferred stock and/or secondary class of common stock may be listed on Nasdaq so long as the security satisfies the listing criteria for common stock.

(C) No change.

(5) There shall be at least 1,000,000 publicly held shares for initial listing and 500,000 publicly held shares for continued listing. For initial listing, such shares shall have a market value [of at least $5 million] *as provided in the applicable provision of Rule 4310(c)(2).* For continued listing, such shares shall have a market value of at least $1 million. In the case of preferred stock and secondary classes of common stock, there shall be at least 200,000 publicly held shares having a market value of at least [$2] *$3.5* million for initial listing and 100,000 publicly held shares having a market value of [$500,000] *$1 million* for continued listing. In addition, the issuer's common stock or common stock equivalent security security must be listed on either Nasdaq or [another national securities exchange] *be a covered security*. In the event the issuer's common stock or common stock equivalent security *either* is not listed on [either] Nasdaq or [another national securities exchange] *is not a covered security*, the preferred stock and/or secondary class of common stock may be traded on Nasdaq so long as the security satisfies the listing criteria for common stock. Shares held directly or

indirectly by any officer or director of the issuer and by any person who is the beneficial owner of more than 10 percent of the total shares outstanding are not considered to be publicly held.

(6) In the case of rights, warrants and ADRs for initial listing only, at least [100,000] *400,000* shall be issued. Issuers of ADRs must also meet the round lot holders and publicly held shares requirements set forth in *the applicable provisions of Rules 4310(c)(2), 4320(e)(4) and 4320(e)(5)* [subsections (4) and (5) above].

(7) In the case of rights and warrants, *for initial and continued listing,* the underlying security shall be listed on Nasdaq or [another national securities exchange] *be a covered security*.

(8)–(26) No change.

(f) No change.

* * * * *

IM–4803. Staff Review of Deficiency

As provided in Rule 4803(a)(1)(A), the staff of the Listing Department may accept a plan to regain compliance with respect to quantitative deficiencies from standards that do not themselves provide a compliance period. Such standards include:

Rules [4310(c)(2)(B)(i) and (iii)] *4310(c)(3)(A) and 4310(c)(3)(C)*

Rule 4310(c)(6)

Rule 4310(c)(7) (but only as to the number of publicly held shares, and not as to such shares' market value)

[Rules 4320(e)(2)(B)(i) and (iii)] *Rule 4320(e)(2)(B)*

Rules 4320(e)(4) and (5) (but only as to the number of publicly held shares, and not as to such shares' market value)

Rules 4450(a)(1), (3), and (4)

Rules 4450(b)(1)(B), (b)(2), and (b)(5), and

Rules 4450(h)(1) and (4).

In a case where an issuer fails to comply with the requirement of Rules [4310(c)(2)(B)(iii), 4320(e)(2)(B)(iii),] *4310(c)(3)(C)* or 4450(b)(1)(B), the Listing Department shall not accept a plan to achieve compliance with those requirements in the future, since compliance requires stated levels of net income or assets and revenues during completed fiscal years and therefore can only be demonstrated through audited financial statements. Similarly, an issuer may not submit a plan relying on partial-year performance to demonstrate compliance with these standards. An issuer cited for non-compliance with these requirements may, however, submit a plan that demonstrates current or near-term compliance with Rules [4310(c)(2)(B)(i), 4320(e)(2)(B)(i),] *4310(c)(3)(A)* or 4450(a)(3) (i.e., the alternative listing requirement relating to stockholders' equity), or Rules [4310(c)(2)(B)(ii), 4320(e)(2)(B)(ii),] *4310(c)(3)(B)* or 4450(b)(1)(A) (i.e., the alternative listing requirement relating to market value of listed securities).

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to increase the initial and continued listing requirements applicable to companies seeking to list, or already listed, on the Nasdaq Capital Market, as set forth in Rule 4310 (for domestic and Canadian securities) and Rule 4320 (for non-Canadian foreign securities and American Depositary Receipts).[5] Nasdaq believes that these changes will facilitate a finding by the Commission that the listing standards for the Capital Market are substantially similar to the listing standards applicable to securities listed on the New York Stock Exchange, the American Stock Exchange, or the Nasdaq Global Market. This finding is required before the Commission can designate securities listed on the Capital Market as ''covered securities,'' which are exempt from state regulation under Section 18 of the Securities Act of 1933 (''Securities Act'').[6]

Primary Listing Standards

The Exchange states that currently, a company can list on the Capital Market by meeting a stockholders' equity, income or market value of listed securities requirement, along with other applicable listing standards. Nasdaq proposes to modify the income and market value of listed securities components of these listing standards to also require a minimum of $4 million in equity in each case. In addition, for companies listing under the equity alternative, Nasdaq proposes to require a two year operating history, instead of the one year history currently required. Further, for companies listing under the market value of listed securities and equity alternatives, Nasdaq proposes to increase the market value of publicly held shares requirement for initial listing from $5 million to $15 million. Finally, Nasdaq proposes to clarify that all companies must have 300 round lot shareholders for continued listing of a primary class of common stock.

Secondary Classes of Common Stock and Preferred Stock

Nasdaq states that it currently permits the listing of secondary classes of common stock and preferred stock on the Capital Market under lower liquidity standards, when the primary class of common stock is listed on Nasdaq or a national securities exchange. Nasdaq proposes to increase the market value of publicly held shares requirement from $2 million to $3.5 million for initial listing and from $500,000 to $1 million for continued listing of these securities. In addition, Nasdaq proposes to modify the listing standards so that the lower liquidity standards are available only when a company's common stock or its equivalent is listed on Nasdaq or is a ''covered security'' as defined in Section 18 of the Securities Act. Finally, Nasdaq proposes to clarify that companies must have 100 round lot shareholders for continued listing under these listing standards.

Rights and Warrants

Nasdaq proposes to increase the requirement for initial listing of rights and warrants to require that there be 400,000 outstanding. In addition, Nasdaq proposes to require that for initial and continued listing, the security underlying a right or warrant must be listed on Nasdaq or be a covered security.[7]

Convertible Debt

Nasdaq states that its rules currently permit the listing of convertible debt on the Capital Market. Nasdaq proposes to modify those rules, to require that for the initial listing of convertible debt either that: (i) The issuer of the debt must have an equity security that is listed on Nasdaq, the American Stock Exchange or the New York Stock Exchange; (ii) an issuer whose equity security is listed on Nasdaq, the American Stock Exchange or the New York Stock Exchange, directly or indirectly owns a majority interest in, or is under common control with, the

[5] *See* Amendment No. 1, *supra* note 3.

[6] 15 U.S.C. 77r(b).

[7] *See* Amendment No. 1, *supra* note 3.

issuer of the debt security, or has guaranteed the debt security; (iii) a nationally recognized securities rating organization (an ''NRSRO'') has assigned a current rating to the debt security that is no lower than an S&P Corporation ''B'' rating or equivalent rating by another NRSRO; or, (iv) if no NRSRO has assigned a rating to the issue, an NRSRO has currently assigned: (1) An investment grade rating to an immediately senior issue; or (2) a rating that is no lower than an S&P Corporation ''B'' rating, or an equivalent rating by another NRSRO, to a *pari passu* or junior issue.[8]

Other Changes

Nasdaq also proposes to make technical and conforming changes to the rules by adding a definition of ''covered security'' in Rule 4200, deleting certain other definitions in Rule 4200 that have no current applicability under Nasdaq rules, and adjusting cross references contained in IM–4803.[9]

Implementation

Nasdaq states that it recognizes that the proposed changes could result in a security that currently meets all the listing requirements becoming non-compliant. Therefore, Nasdaq proposes that the changes to the continued listing requirements be made effective 30 days[10] after the proposed rule change is approved by the Commission. Nasdaq believes that this period would provide currently-listed companies with adequate time to comply.

In the case of companies applying for initial listing, Nasdaq proposes that the new requirements be effective upon approval for companies that apply after the date this proposed rule change is submitted to the SEC. Nasdaq states that companies that had applied for listing prior to the date this proposed rule change is submitted to the SEC would be able to continue to qualify under the prior standards, provided that they complete the listing process not later than 30 days[11] after the proposed rule change is approved by the Commission. Companies that apply after the date this proposed rule change is submitted to the SEC would be approved for listing based on the rules in effect at the time of the approval. The Exchange believes that this schedule provides notice to companies applying for listing that they would be subject to higher standards upon approval of the rule, so such companies would not be prejudiced, but recognizes that companies that have previously applied did so in reliance on the prior listing standards, and therefore provides them a reasonable period of time to complete the listing process on that basis.

The Exchange states that these procedures are similar to those used when the listing standards were revised in 1997 and 2001.[12]

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 6 of the Act[13] in general and with Section 6(b)(5) of the Act,[14] in particular. Section 6(b)(5) requires that Nasdaq's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The Exchange believes that the proposed rule change, as amended, would raise the listing standards on the Nasdaq Capital Market, which will help protect investors. Further, Nasdaq believes that the proposed rule change will facilitate the Commission's review of Nasdaq's petition to treat securities listed on the Capital Market as covered securities under Section 18(b) of the Securities Act,[15] which would remove an impediment to the mechanism of a free and open market.[16]

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which Nasdaq consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2006–032 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2006–032. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. All

[8] *See* Amendment No. 1, *supra* note 3.

[9] Nasdaq notes that the references to Rule 4320 in the final paragraph of IM–4803 have been deleted based on the new structure of the rules. Nonetheless, the substance of this interpretive material continues to apply to non-U.S. companies in the same manner that it applies to domestic companies due to the cross reference to Rule 4310(c)(3) contained in Rule 4320(e)(2)(B).

[10] *See* Amendment No. 1, *supra* note 3.

[11] *See* Amendment No. 1, *supra* note 3.

[12] *See* Securities Exchange Act Release Nos. 38961 (August 22, 1997), 62 FR 45895 (Aug. 29, 1997) (approving SR–NASD–1997–16); and 44499 (June 29, 2001), 66 FR 35819 (July 9, 2001) (approving SR–NASD–2001–14).

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 77r(b).

[16] Petition to Amend Rule 146(b) to Designate Securities Listed on the Nasdaq Capital Market as Covered Securities for the Purpose of Section 18 of the Securities Act of 1933 (February 28, 2006) (designated as Commission File No. 4–513, available at: *http://www.sec.gov/rules/petitions/petn4-513.pdf*).

comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2006–032 and should be submitted on or before September 26, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Nancy M. Morris,

Secretary.

[FR Doc. E6–14651 Filed 9–1–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54376; File No. SR–NASD–2006–093]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Regarding Pricing for Non-Members Using Nasdaq's Brut and Inet Facilities

August 28, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 31, 2006, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. In addition, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the pricing for non-NASD members using Nasdaq's Brut and Inet Facilities to trade non-Nasdaq securities. The filing will apply to these non-members the same rule change that Nasdaq is instituting for members.[3] Nasdaq seeks approval to implement the proposed rule change retroactively as of August 1, 2006. The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].[4]

7010. System Services

(a)–(h) No change.

(i) ITS/CAES System, Brut, and Inet Order Execution and Routing

(1)–(8) No change.

(9) The fees applicable to non-members using Nasdaq's Brut and Inet Facilities shall be the fees established for members under Rule 7010(i), as amended by SR–NASD–2005–019, SR–NASD–2005–035, SR–NASD–2005–048, SR–NASD–2005–071, SR–NASD–2005–125, SR–NASD–2005–137, SR–NASD–2005–154, SR–NASD–2006–013, SR–NASD–2006–023, SR–NASD–2006–031, SR–NASD–2006–057, [and] SR–NASD–2006–078*, and SR–NASD–2006–092* and as applied to non–members by SR–NASD–2005–020, SR–NASD–2005–038, SR–NASD–2005–049, SR–NASD–2005–072, SR–NASD–2005–126, SR–NASD–2005–138, SR–NASD–2005–155, SR–NASD–2006–014, SR–NASD–2006–024, SR–NASD–2006–032, SR–NASD–2006–058, [and] SR–NASD–2006–079*, and SR–NASD–2006–093*.

(j)–(y) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In SR–NASD–2006–092,[5] Nasdaq amended NASD Rule 7010(i), which has historically contained the fees for the trading systems of The Nasdaq Stock Market, to reflect the Nasdaq Exchange's commencing operations for trading of securities listed on the Nasdaq Exchange. During a transitional period, the Nasdaq Exchange will operate for its own listed stocks, while The Nasdaq Stock Market, Inc. continues to operate under authority delegated by NASD to provide quotation, execution, and trade reporting services for non-Nasdaq listed securities. Nasdaq states that the Brut and Inet platforms owned by Nasdaq will be operated as facilities of the Nasdaq Exchange for purposes of trading Nasdaq-listed securities, and as facilities of NASD for purposes of trading non-Nasdaq securities. Accordingly, SR–NASD–2006–092 amended NASD Rule 7010(i) to remove fees and credits associated with trading Nasdaq-listed stocks, which are now contained in Rule 7018 of the Nasdaq Exchange.[6] Nasdaq states that NASD Rule 7010(i) would continue to govern fees and credits for the ITS/CAES System (formerly the Nasdaq Market Center) operated by Nasdaq for trading non-Nasdaq securities, as well as Brut and Inet to the extent that they are used for trading non-Nasdaq securities. The ITS/CAES System, Brut and Inet are collectively referred to in the rule as the Nasdaq Facilities.

SR–NASD–2006–092 also added a sentence to the rule to provide that for purposes of determining a member's volume in all securities under NASD Rule 7010(i), the term ''Nasdaq Facilities,'' shall also be deemed to include the member's volume in Nasdaq-listed securities traded through the facilities of the Nasdaq Exchange (*i.e.*, the Nasdaq Market Center, Brut and Inet). Nasdaq states that this clarification was necessary to ensure that fees and credits for trading non-Nasdaq securities remain at their current levels during the transitional period before the Nasdaq Exchange begins to trade non-Nasdaq securities.

In SR–NASD–2006–092, Nasdaq also changed its fees for routing orders to the New York Stock Exchange (''NYSE'') through its DOT system. NYSE recently announced that it would impose a significant fee increase on broker-dealers, such as Nasdaq's Brut broker-

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 54375 (August 28, 2006) (File No. SR–NASD–2006–092).

[4] Changes are marked to the rule text that appears in the electronic NASD Manual found at *http://www.nasd.com*. The Nasdaq Exchange states that it will not file conforming changes to its rules with regard to order execution and routing by non-members, since persons that are not members of the Nasdaq Exchange will not be permitted to use its order execution and routing systems.

[5] *See supra* note 3.

[6] *See* Securities Exchange Act Release No. 54285 (August 8, 2006) (File No. SR–NASDAQ–2006–023) (notice of filing and immediate effectiveness of proposed rule change regarding technical and conforming changes to Nasdaq Rule 7018). Telephone conversation among John Yetter, Senior Associate General Counsel, Nasdaq, David Liu, Special Counsel, Division of Market Regulation (''Division''), Commission, and Theodore S. Venuti, Attorney, Division, Commission, on August 14, 2006.

dealer, that route orders to the NYSE floor through DOT, effective August 1, 2006.[7] Nasdaq states that as a result, it must pass these increased costs through to market participants that make use of the routing service. Specifically, for orders that attempt to execute in the Nasdaq Facilities prior to routing and that are not charged a fee by the NYSE specialist,[8] Nasdaq is imposing a charge of $0.0002 per share executed; however, the total fee for all such orders routed during a month is capped at $60,000 per firm. For orders that are routed through DOT but that do not attempt to execute in the Nasdaq Facilities, the routing fee is $0.0003 per share executed, with no cap.

Finally, to encourage greater liquidity provision with respect to securities that are listed on both the NYSE and the Nasdaq Exchange, SR–NASD–2006–092 increased the credit to liquidity providers in these securities, from $0.0005 or $0.0006 per share executed to $0.0007 per share executed. Nasdaq believes that the change would promote greater competition between Nasdaq and NYSE and enhance market quality with respect to Nasdaq's trading of these dual-listed securities.

Nasdaq is submitting this filing to apply the foregoing changes to non-NASD members using Nasdaq's Brut and Inet Facilities to trade non-Nasdaq securities. These non-members cannot use the facilities of the Nasdaq Exchange to trade Nasdaq-listed securities, but are currently permitted to use Brut and Inet to trade non-Nasdaq securities.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[9] in general, and with Section 15A(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Nasdaq states that the proposed rule change applies to non-members that use Brut and Inet a fee change that is being implemented for NASD members that use Brut, Inet, and the ITS/CAES System to trade non-Nasdaq securities. Accordingly, Nasdaq believes that the proposed rule change promotes an equitable allocation of fees between members and non-members using these order execution facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2006–093 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–093. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NASD–2006–093 and should be submitted on or before September 26, 2006.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization.[11] Specifically, the Commission believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act,[12] which requires that the rules of the self-regulatory organization provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facilities or system which it operates or controls.

The Commission notes that this proposal would retroactively modify pricing for non-NASD members using Nasdaq's Brut and Inet Facilities that would permit the schedule for non-NASD members to mirror the schedule applicable to NASD members that became effective July 31, 2006, pursuant to SR–NASD–2006–092.

Nasdaq has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission notes that the proposed fees for non-NASD members are identical to those in SR–NASD–2006–092, which implemented those fees for NASD members and which became effective as of July 31, 2006. The Commission notes that this change will promote consistency in Nasdaq's fee schedule by applying the same pricing schedule with the same date of effectiveness for both NASD members and non-NASD members. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2)

[7] *See* Securities Exchange Act Release No. 54142(July 13, 2006), 71 FR 41493 (July 21, 2006) (File No. SR–NYSE–2006–46). Effective August 1, 2006, the NYSE is imposing a new charge of $0.00025 per share executed, subject to a monthly cap of $750,000.

[8] Nasdaq states that the NYSE specialist fees are distinct from the newDOT fees imposed by the NYSE itself. Specialist fees are generally imposed when orders routed to the NYSE remain unexecuted for a period of time. The routing fee for orders that are charged by the specialist remains $0.01 per share executed.

[9] 15 U.S.C. 78*o*–3.

[10] 15 U.S.C. 78*o*–3(b)(5).

[11] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78*o*–3(b)(5).

of the Act,[13] for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NASD–2006–093) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Nancy M. Morris,

Secretary.

[FR Doc. E6–14598 Filed 8–29–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54375; File No. SR–NASD–2006–092]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Pricing Schedule for NASD Members Using the ITS/CAES System, Brut, and Inet To Trade Securities Not Listed on The NASDAQ Stock Market LLC

August 28, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 31, 2006, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the pricing for NASD members using the ITS/CAES System and Brut and Inet (''Nasdaq Facilities'') to trade securities that are not listed on The NASDAQ Stock Market LLC (''Nasdaq Exchange'').[5] Nasdaq states that it will implement the proposed rule change on August 1, 2006. The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].[6]

7010. System Services

(a)–(h) No change.

(i) [Nasdaq Market Center]*ITS/CAES System,* Brut, and Inet Order Execution and Routing

(1) The following charges shall apply to the use of the order execution and routing services of the [Nasdaq Market Center]*ITS/CAES System,* Brut, and Inet (the ''Nasdaq Facilities'') by members for all [Nasdaq-listed securities subject to the Nasdaq UTP Plan and for] Exchange-Traded Funds that are not listed on *The NASDAQ Stock Market LLC* [Nasdaq]. The term ''Exchange-Traded Funds'' shall mean Portfolio Depository Receipts, Index Fund Shares, and Trust Issued Receipts as such terms are defined in Rule 4420(i), (j), and (l), respectively, *of The NASDAQ Stock Market LLC. For purposes of determining a member's volume in all securities under Rule 7010(i), the term ''Nasdaq Facilities'' shall also be deemed to include the member's volume in Nasdaq-listed securities through the facilities of The NASDAQ Stock Market LLC.*

Order Execution:	
Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the Nasdaq Facilities:	
Charge to member entering order:	
Members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 30 million shares of liquidity provided, and (ii) more than 50 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 60 million shares of liquidity accessed and/or routed.	$0.0028 per share executed (or, in the case of executions against Quotes/Orders at less than $1.00 per share, 0.1% of the total transaction cost).
Other members	$0.0030 per share executed (or, in the case of executions against Quotes/Orders at less than $1.00 per share, 0.1% of the total transaction cost).
Credit to member providing liquidity:	
Members with an average daily volume through the Nasdaq Facilities in all securities during the month of more than 30 million shares of liquidity provided.	$0.0025 per share executed (or $0, in the case of executions against Quotes/Orders at less than $1.00 per share).
Other members	$0.0020 per share executed (or $0, in the case of executions against Quotes/Orders at less than $1.00 per share).

[13] 15 U.S.C. 78s(b)(2).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The Commission notes that Nasdaq filed a proposed rule change to apply the same pricing change to non-members. *See* Securities Exchange Act Release No. 54376 (August 28, 2006) (File No. SR–NASD–2006–093).

[6] Nasdaq states that changes are marked to the rule text that appears in the electronic NASD Manual found at *www.nasd.com*, as further amended on an immediately effective basis by SR–NASD–2006–078 (June 30, 2006). *See* Securities Exchange Act Release No. 54268 (August 3, 2006), 71 FR 45882 (August 10, 2006). Nasdaq states that prior to the date when the Nasdaq Exchange begins to trade securities that are not listed on the Nasdaq Exchange, the Nasdaq Exchange will file a conforming change to the rules of the Nasdaq Exchange. The rules of the Nasdaq Exchange are found at *www.complinet.com/nasdaq*.

Order that accesses the Quote/Order of a market participant that charges an access fee to market participants accessing its Quotes/Orders through the Nasdaq Facilities:	
Charge to member entering order:	
Members with an average daily volume through the Nasdaq Facilities in all securities during the month of more than 500,000 shares of liquidity provided.	$0.001 per share executed (but no more than $10,000 per month).
Other members	$0.001 per share executed.
[Order Routing for Nasdaq-Listed Securities]:	
[Any order entered by a member that is routed outside of the Nasdaq Facilities and that does not attempt to execute in the Nasdaq Facilities prior to routing].	[The greater of (i) $0.004 per share executed or (ii) a pass-through of all applicable access fees charged by electronic communications networks that charge more than $0.003 per share executed].
[Any other order entered by a member that is routed outside of the Nasdaq Facilities:]	
[Members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 30 million shares of liquidity provided, and (ii) more than 50 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 60 million shares of liquidity accessed and/or routed].	[The greater of (i) $0.0028 per share executed or (ii) a pass-through of all applicable access fees charged by electronic communications networks that charge more than $0.003 per share executed].
[Other members]	[The greater of (i) $0.0030 per share executed or (ii) a pass-through of all applicable access fees charged by electronic communications networks that charge more than $0.003 per share executed].
Order Routing for Exchange-Traded Funds Not Listed On Nasdaq:	
Order routed to the New York Stock Exchange (''NYSE'') through its DOT system.	See DOT fee schedule in Rule 7010(i)[(6)] *(7).*
Any other order entered by a member that is routed outside of the Nasdaq Facilities and that does not attempt to execute in the Nasdaq Facilities prior to routing.	$0.004 per share executed.
Order routed to the American Stock Exchange (''Amex'') after attempting to execute in the Nasdaq Facilities.	$0.003 per share executed (plus, in the case of orders charged a fee by the Amex specialist, $0.01 per share executed).
Order routed through the Intermarket Trading System (''ITS'') after attempting to execute in the Nasdaq Facilities.	$0.0007 per share executed.
Order routed to venues other than the NYSE and Amex after attempting to execute in the Nasdaq Facilities.	$0.003 per share executed.

(2) No change.

(3) [Closing Cross] *Reserved*

[Market-on-Close and Limit-on-Close orders executed in the Nasdaq Closing Cross].	[$0.0005 per share executed].
[All other quotes and orders executed in the Nasdaq Closing Cross]	[No charge for execution].

(4) [Opening Cross] *Reserved*

[Members shall be assessed the following Nasdaq Market Center execution fees for quotes and orders executed in the Nasdaq Opening Cross:]

[Market-on-Open, Limit-on-Open, Good-till-Cancelled, Immediate-or-Cancel, and Day orders executed in the Nasdaq Opening Cross].	[$0.0005 per share executed for the net number of buy and sell shares up to a maximum of $10,000 per firm per month].
[All other quotes and orders executed in the Nasdaq Opening Cross]	[No charge for execution].

(5) [IPO/Halt Cross] *Reserved*

[Members shall be assessed the following Nasdaq Market Center execution fees for quotes and orders executed in the Nasdaq IPO/Halt Cross:]

[All quotes and orders executed in the Nasdaq IPO/Halt Cross]	[$0.0005 per share executed].

(6) Except as provided in paragraph (7), the following charges shall apply to the use of the order execution and routing services of the Nasdaq Facilities by members for securities subject to the Consolidated Quotations Service and Consolidated Tape Association plans other than Exchange-Traded Funds (''Covered Securities''):

Order Execution:	
Order that accesses the Quote/Order of a Nasdaq Facility market participant:	
Charge to member entering order	$0.0007 per share executed.
Credit to member providing liquidity *for a Covered Security listed on NYSE and The NASDAQ Stock Market LLC:*.	*$0.0007 per share executed.*

Credit to a member providing liquidity for other Covered Securities.	
Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of more than 5 million shares of liquidity accessed, provided, or routed but less than 10 million shares of liquidity provided.	$0.0005 per share executed.
Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of 10 million or more shares of liquidity provided.	$0.0006 per share executed.
Other members	No credit.
Order Routing:	
Order routed to Amex	$0.003 per share executed (plus, in the case of orders charged a fee by the Amex specialist, $0.01 per share executed).
Order routed through the ITS	$0.0007 per share executed.
Order routed to NYSE	See DOT fee schedule in Rule 7010(i)(7).
Order for NYSE-listed Covered Security routed to venue other than the NYSE.	$0.001 per share executed.
Order for Covered Security listed on venue other than the NYSE and routed to venue other than Amex.	$0.003 per share executed.

(7) The following [classes] *charges* shall apply to the use of the Nasdaq Facilities by members for routing to the NYSE through its DOT system for all securities, including Exchange-Traded Funds:

Order charged a fee by the NYSE specialist	$0.01 per share executed.
Order that attempts to execute in the Nasdaq Facilities prior to routing and that is not charged a fee by the NYSE specialist.	[No charge] *$0.0002 per share executed (but no more than $60,000 per month).*
Order that does not attempt to execute in the Nasdaq Facilities prior to routing and that is not charged a fee by the NYSE specialist[:].	*$0.0003 per share executed.*
[Average daily shares of liquidity routed through Nasdaq's DOT linkage by the member during the month:]	
[More than 30 million]	[$0.0001 per share executed].
[Between 2,000,001 and 30 million]	[$0.0003 per share executed].
[Between 250,001 and 2 million]	[$0.0005 per share executed].
[Between 100,001 and 250,000]	[$0.001 per share executed].
[100,000 or less]	[$0.01 per share executed].

(8) When a market participant enters an order into Nasdaq's Brut or Inet systems that is sent to a*n ITS/CAES System* [Nasdaq Market Center] market participant that charges an access fee to Brut or Inet, the market participant entering the order shall be charged (i) the applicable execution fee of the Nasdaq Facilities, or (ii) in the case of executions against Quotes/Orders at less than $1.00 per share, a pass-through of the access fee charged to Brut or Inet.

(9) No change.

(j)–(y) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Transition to Operation of the Nasdaq Exchange

Nasdaq proposes to amend NASD Rule 7010(i), which has historically contained the fees for the trading systems of The Nasdaq Stock Market, to reflect the Nasdaq Exchange's commencing operations for trading of securities listed on the Nasdaq Exchange. During a transitional period, the Nasdaq Exchange will operate for its own listed stocks, while The Nasdaq Stock Market, Inc. continues to operate under authority delegated by NASD to provide quotation, execution, and trade reporting services for non-Nasdaq listed securities. Nasdaq states that the Brut and Inet platforms owned by Nasdaq will be operated as facilities of the Nasdaq Exchange for purposes of trading Nasdaq-listed securities, and as facilities of NASD for purposes of trading non-Nasdaq securities. Accordingly, Nasdaq is amending NASD Rule 7010(i) to remove fees and credits associated with trading Nasdaq-listed stocks, which are now contained in Rule 7018 of the Nasdaq Exchange.[7] Nasdaq states that NASD Rule 7010(i) would continue to govern fees and credits for the ITS/CAES System (formerly the Nasdaq Market Center) operated by Nasdaq for trading non-Nasdaq securities, as well as Brut and Inet to the extent that they are used for trading non-Nasdaq securities. The ITS/CAES System, Brut and Inet are collectively referred to in the proposed rule as the Nasdaq Facilities.

Nasdaq states that, because the level of some of the current fees for transactions in non-Nasdaq stocks depends upon a market participant's monthly transaction volume in all securities (*i.e.*, Nasdaq-listed and non-Nasdaq listed), Nasdaq is adding a sentence to the proposed rule to provide that, for purposes of determining a member's volume in all securities under NASD Rule 7010(i), the term ''Nasdaq Facilities,'' shall also be deemed to

[7] *See* Securities Exchange Act Release No. 54285 (August 8, 2006) (File No. SR–NASDAQ–2006–023) (notice of filing and immediate effectiveness of proposed rule change regarding technical and conforming changes to Nasdaq Rule 7018). Telephone conversation among John Yetter, Senior Associate General Counsel, Nasdaq, David Liu, Special Counsel, Division of Market Regulation (''Division''), Commission, and Theodore S. Venuti, Attorney, Division, Commission, on August 14, 2006.

include the member's volume in Nasdaq-listed securities traded through the facilities of the Nasdaq Exchange (*i.e.*, the Nasdaq Market Center, Brut and Inet). Nasdaq states that this clarification is necessary to ensure that fees and credits for trading non-Nasdaq securities remain at their current levels during the transitional period before the Nasdaq Exchange begins to trade non-Nasdaq securities.

Fee Changes

Nasdaq also proposes to change its fees for routing orders to the New York Stock Exchange (''NYSE'') through its DOT system. NYSE recently announced that it would impose a significant fee increase on broker-dealers, such as Nasdaq's Brut broker-dealer, that route orders to the NYSE floor through DOT, effective August 1, 2006.[8] Nasdaq states that as a result, it must pass these increased costs through to market participants that make use of the routing service. Specifically, for orders that attempt to execute in the Nasdaq Facilities prior to routing and that are not charged a fee by the NYSE specialist,[9] Nasdaq is proposing a charge of $0.0002 per share executed; however, the total fee for all such orders routed during a month is capped at $60,000. For orders that are routed through DOT but that do not attempt to execute in the Nasdaq Facilities, the routing fee is $0.0003 per share executed, with no cap.

Finally, to encourage greater liquidity provision with respect to securities that are listed on both the NYSE and the Nasdaq Exchange, Nasdaq proposes to increase the credit to liquidity providers in these securities, from $0.0005 or $0.0006 per share executed (depending on the member's volume) to $0.0007 per share executed. Nasdaq believes that the change would promote greater competition between Nasdaq and NYSE and enhance market quality with respect to Nasdaq's trading of these dual-listed securities.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[10] in general, and with Section 15A(b)(5) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Nasdaq states that its changes in routing fees are necessitated by increased costs imposed on Nasdaq's routing broker-dealer by NYSE. Nasdaq believes that the increased liquidity provider credit for dual-listed stocks will promote greater competition between the two primary listing markets in the U.S. Finally, Nasdaq believes the changes to reflect operation of the Nasdaq Exchange for trading Nasdaq-listed securities are needed to maintain the current levels of other fees and credits associated with trading non-Nasdaq securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is subject to Section 19(b)(3)(A)(ii) of the Act[12] and subparagraph (f)(2) of Rule 19b–4 thereunder[13] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NASD–2006–092 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NASD–2006–092. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NASD–2006–092 and should be submitted on or before September 26, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–14599 Filed 9–1–06; 8:45 am]

BILLING CODE 8010–01–P

[8] *See* Securities Exchange Act Release No. 54142 (July 13, 2006), 71 FR 41493 (July 21, 2006) (File No. SR–NYSE–2006–46). Effective August 1, 2006, the NYSE is imposing a new charge of $0.00025 per share executed, subject to a monthly cap of $750,000.

[9] Nasdaq states that the NYSE specialist fees are distinct from the new DOT fees imposed by the NYSE itself. Specialist fees are generally imposed when orders routed to the NYSE remain unexecuted for a period of time. The routing fee for orders that are charged by the specialist remains $0.01 per share executed.

[10] 15 U.S.C. 78*o*–3.

[11] 15 U.S.C. 78*o*–3(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before October 5, 2006. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83-I), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416, and *David_Rostker@omb.eop.gov* fax number 202–395–7285 Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, *Jacqueline.white@sba.gov* (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Borrower's Progress Certification.

Form No.: 1366.

Frequency: On Occasion.

Description of Respondents: Recipients of Disaster Loans.

Annual Responses: 22,253.

Annual Burden: 12,078.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E6–14654 Filed 9–1–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Rustic Canyon Ventures SBIC, L.P., License No. 09/79–0450, Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Rustic Canyon Ventures SBIC, L.P., 2425 Olympic Blvd., Suite 6050W, Santa Monica, CA 90404, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730 (2006)). Rustic Canyon Ventures SBIC, L.P. proposes to provide equity security financing to Meximerica Media, Inc., 115 E. Travis #800, San Antonio, TX 78205. The financing is contemplated for operating expenses and for general corporate purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Rustic Canyon Ventures, L.P. and Rustic Canyon/Fontis Partners, L.P., both Associates of Rustic Canyon Ventures SBIC, L.P., collective own more than ten percent of Meximerica Media, Inc. Therefore, Meximerica Media, Inc. is also considered an Associate of Rustic Canyon Ventures SBIC, L.P., as defined at 13 CFR 107.50 of the SBIC Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

Jaime Guzmán-Fournier,

Associate Administrator for Investment.

[FR Doc. E6–14655 Filed 9–1–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10519 and #10520]

New York Disaster Number NY–00022

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of New York (FEMA—1650—DR), dated 07/03/2006.

Incident: Severe Storms and Flooding.

Incident Period: 06/26/2006 through 07/10/2006.

Effective Date: 08/29/2006.

Physical Loan Application Deadline Date: 10/02/2006.

EIDL Loan Application Deadline Date: 04/03/2007.

ADDRESSES: *Submit completed loan applications to:* U.S. Small Business Administration, National Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of New York, dated 07/03/2006, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 10/02/2006.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–14656 Filed 9–1–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review Under Executive Order 12372

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 42 existing Small Business Development Centers (SBDCs) for refunding on January 1, 2007, subject to the availability of funds. Fourteen states do not participate in the EO 12372 process therefore, their addresses are not included. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 90 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

ADDRESSES:

Addresses of Relevant SDBC State Directors

Mr. Greg Panichello, State Director, Salt Lake Community College, 9750 South 300 West, Sandy, UT 84070, (801) 957–3493.

Mr. Herbert Thweatt, Director, American Samoa Community College, P.O. Box 2609, Pago Pago, American Samoa 96799, 011–684–699–4830.

Mr. John Lenti, State Director, University of South Carolina, 1710 College Street, Columbia, SC 29208, (803) 777–4907.

Ms. Kelly Manning, State Director, Office of Business Development, 1625 Broadway, Suite 1710, Denver, CO 80202, (303) 892–3864.

Mr. Henry Turner, Executive Director, Howard University, 2600 6th St., NW., Room 125, Washington, DC 20059, (202) 806–1550.

Mr. Jerry Cartwright, State Director, University of West Florida, 401 East Chase Street, Suite 100, Pensacola, FL 32502, (850) 473–7800.

Mr. Allan Adams, Acting State Director, University of Georgia, 1180 East Broad Street, Athens, GA 30602, (706) 542–6762.

Mr. Darryl Mleynek, State Director, University of Hawaii/Hilo, 308 Kamehameha Avenue, Suite 201, Hilo, HI 96720, (808) 974–7515.

Mr. Sam Males, State Director, University of Nevada/Reno, College of Business Administration, Room 411, Reno, NV 89557–0100, (775) 784–1717.

Mr. Patrick Geho, State Director, Middle Tennessee State University, P.O. Box 98, Murfreesboro, TN 37132, (615) 849–9999.

Mr. Bruce Kidd, Acting State Director, Economic Development Council, One North Capitol, Suite 900, Indianapolis, IN 46204, (317) 232–2464.

Ms. Mary Collins, State Director, University of New Hampshire, 108 McConnell Hall, Durham, NH 03824, (603) 862–4879.

Mr. John Massaua, State Director, University of Southern Maine, 96 Falmouth Street, Portland, ME 04103, (207) 780–4420.

Mr. Brett Rogers, State Director, Washington State University, 534 East Trent Avenue, Spokane, WA 99210–1495, (509) 358–7765.

Mr. Ron Newman, Acting State Director, University of North Dakota, 1600 East Century Avenue, Suite 2, Bismarck, ND 58503, (701) 328–5375.

Mr. Casey Jeszenka, SBDC Director, University of Guam, P.O. Box 5061—U.O.G. Station, Mangilao, GU 96923, (671) 735–2590.

Mr. John Hemmingstad, State Director, University of South Dakota,414 East Clark Street, Patterson Hall, Vermillion, SD 57069, (605) 677–6256.

Ms. Debra Malewick, State Director, University of Wisconsin, 432 North Lake Street, Room 423, Madison, WI 53706, (608) 263–7794.

Mr. Greg Higgins, State Director, University of Pennsylvania, The Wharton School, 423 Vance Hall, Philadelphia, PA 19104, (215) 898–1219.

Ms. Kristin Johnson, Regional Director, Humboldt State University, Office of Economic & Community Dev., 1 Harpst Street, 2006A, Siemens Hall, Arcata, CA 95521, (707) 445–9720 x317.

Ms. Vi Pham, Region Director, California State University, Fullerton, 800 North State College Blvd., Fullerton, CA 92834, (714) 278–2719.

Ms. Debbie Trujillo, Region Director, Southwestern Community College District, 900 Otey Lakes Road, Chula Vista, CA 91910, (619) 482–6388.

Mr. Chris Rosander, Region Director, University of California, Merced, 550 East Shaw, Suite 105A, Fresno, CA 93710, (559) 241–6590.

Mr. Dan Ripke, Region Director, California State University, Chico Research Foundation, Chico, CA 95929–0765, (530) 898–4598.

FOR FURTHER INFORMATION CONTACT: Antonio Doss, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, SW., Sixth Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with the SBA. SBDCs operate on the basis of a state plan to provide assistance within a state or geographic area. The initial plan must have the written approval of the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) Increase economic growth;

(c) Assist more small businesses; and

(d) Broaden the delivery system to more small businesses.

SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) Locate service centers so that they are as accessible as possible to small businesses;

(b) Open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) Develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) Maintain lists of private consultants at each service center.

Dated: August 25, 2006.

Antonio Doss,

Associate Administrator for Small Business Development Centers.

[FR Doc. E6–14657 Filed 9–1–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5538]

Culturally Significant Objects Imported for Exhibition Determinations: ''I See No Stranger: Early Sikh Art and Devotion''

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''I See No Stranger: Early Sikh Art and Devotion,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Rubin Museum of Art, New York, New York, from on or about September 18, 2006, until on or about January 29, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

For Further Information Contact: For further information, including a list of the exhibit objects, contact Paul Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 29, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–14650 Filed 9–1–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5513]

Announcement of Meetings of the International Telecommunication Advisory Committee

Summary:

The International Telecommunication Advisory Committee will meet on September 26, 2006 at 10 am to prepare positions for the next meeting of the Inter-American Telecommunication Commission (CITEL) Permanent Consultative Committee II (PCCII) October 17–20, 2006 in Caracas, Venezuela. Members of the public will be admitted to the extent that seating is available, and may join in the discussions, subject to the instructions of the Chair.

The International Telecommunication Advisory Committee (ITAC) will meet on September 26, 2006 at 10 a.m.; the meeting location has not yet been established. The meeting will review contributions to the forthcoming CITEL PCCII meeting as well as discuss reports on the World Radiocommunication Conference. Information on the meeting location and conference bridge information may be obtained by calling the ITAC Secretariat at 202 647–3234.

Dated: August 29, 2006.

Anne Jillson,

Foreign Affairs Officer, International Communications & Information Policy, Department of State.

[FR Doc. E6–14646 Filed 9–1–06; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Corridors of the Future Program

AGENCY: Department of Transportation (DOT).

ACTION: Notice; request for applications.

SUMMARY: The purpose of this notice is to solicit applications from interested parties to participate in the Corridors of the Future Program (CFP) selection process. The goal of the CFP is to accelerate the development of multi-State transportation Corridors of the Future for one or more transportation modes, by selecting up to 5 major transportation corridors in need of investment for the purpose of reducing congestion. The Federal government has an important role to play in facilitating and accelerating multi-State investments. States are encouraged to work together and with private sector partners to develop multi-State corridor proposals to advance project development and seek alternative financial opportunities. CFP projects may augment an existing transportation corridor or may develop entirely new facilities.

Applications will be submitted in a two-step process. In the first step, the Applicant will submit a Corridor Proposal (Proposal) containing general information about the proposed Corridor project (Corridor). A Proposal may be submitted by one State, multiple States, or a private sector entity, and at this stage does not require the concurrence of all affected States. After the Proposal has been reviewed, the Applicant may be asked to proceed to the second step in the process by submitting an Application with more detailed information about the project.

DATES: Proposals must be received on or before October 23, 2006. The due date for Applications will be April 2, 2007.

ADDRESSES: Interested parties should submit Proposals to Mr. James D. Ray, Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Room 4213, Washington, DC 20590 or electronically to *corridorsofthefuture@dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Michael W. Harkins, Attorney-Advisor, (202) 366–4928 (*michael.harkins@dot.gov*), or Ms. Alla C. Shaw, Attorney-Advisor, (202) 366–1042 (*alla.shaw@dot.gov*), Federal Highway Administration, Office of the Chief Counsel, 400 Seventh Street, SW., Room 4230, Washington, DC 20590. Office hours are from 7:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara.*

Background

The DOT is establishing a Corridors of the Future selection process to accelerate the development of multi-State, and possibly multi-use, transportation corridors to help reduce congestion. The DOT is seeking applications from either public or private sector entities to identify and advance multi-State transportation corridor investments that can alleviate current or forecasted congestion. Through this selection process, the DOT will select up to 5 Corridors in need of investment.

Congestion is one of the single largest threats to America's economic prosperity and way of life. Former Secretary of Transportation Norman Y. Mineta framed the problem earlier this year:

> If power blackouts drained billions of dollars from the economy each year, it would be considered a crisis of unacceptable proportion. Yet many accept the fact that Americans squander 3.7 billion hours and 2.3 billion gallons of fuel each year sitting in traffic jams and waste $9.4 billion as a result

of airline delays. Even worse, congestion takes a major bite out of our day—time that could be spent with families, friends, and neighbors.[1]

Congestion now draws close to $200 billion per year from the U.S. economy.

In an effort to combat the growing problems of congestion, Secretary Mineta launched the DOT's ''National Strategy to Reduce Congestion on America's Transportation Network'' in May 2006. The Strategy consists of a 6-point plan, including the Corridors of the Future selection process, designed both to reduce congestion in the short-term and to build the foundation for successful longer-term congestion reduction efforts.[2]

Objectives

The primary objectives of the CFP are to:

A. Promote innovative national and regional approaches to congestion mitigation.

B. Address major transportation investment needs.

C. Illustrate the benefits of alternative financial models that involve private sector capital.

D. Promote a more efficient environmental review and project development process.

E. Develop corridors that will increase freight system reliability and enhance the quality of life for U.S. citizens.

F. Demonstrate the viability of a transportation investment model based on sound economics and market principles.

Application Process

The application process consists of two phases: The submission of a Corridor Proposal followed by an invitation to submit a formal application. Each phase is discussed below.

A. Phase 1: Corridor Proposal

A State, multiple States or a private entity (Applicant) interested in the CFP should submit a Corridor Proposal to the DOT. The length of the Proposal should not exceed ten single-spaced pages. The Proposal should, in general terms, describe the Corridor, including its purpose, location, preliminary design features, rough estimate of capital cost, proposed delivery schedule, likely financing mechanism(s), traffic trends (on competing corridors if a new corridor is being proposed), and information about the status of agreement among the States to advance the proposed Corridor. Private entities should consult with relevant State transportation agencies and Governors' offices prior to submitting a Proposal. Corridor proposals may include new capacity development or upgrades/extensions of existing capacity, but the proposals should involve two or more States. The Applicant should also state whether the proposed Corridor will cross any Federal or Indian lands. To the extent the proposed Corridor is already in development, the Applicant should describe broadly the remaining activities that must be undertaken.

The Applicant may be requested to submit additional information if more information is needed at this stage. The Applicant should estimate the length of time needed before it would have the necessary information and concurrences needed to submit a detailed Corridor Application, discussed below. The deadline for submitting a Proposal is October 23, 2006. If an Applicant submits a Proposal after the October 23 deadline, the Proposal will be considered to the extent practicable but will not necessarily be eligible to advance to the next step in the Application process during the first phase.

If a Proposal is accepted for the final competition, the Applicant will be invited to submit a Corridor Application, discussed below. The DOT intends to announce the first phase of Corridor Proposals for further consideration by the middle of November 2006.

B. Phase 2: Corridor Application

If an Applicant is invited to submit a Corridor Application (Application) for the CFP, the Application must be received not later than April 2, 2007, unless an extension is granted in writing by the FHWA Chief Counsel at his discretion in response to a written request for an extension. All Federal, State, and Indian tribal governments that own property which will be directly impacted by the proposed Corridor should concur in the Application. The DOT intends to announce the initial CFP Corridors approved for further development after spring 2007.

The Application should address each of the following:

1. Physical Description

The Application should include a detailed description of the proposed interstate transportation Corridor, including a map detailing the Corridor and its connection to existing transportation infrastructure.

2. Congestion Reduction

The proposed Corridor may address current or future congestion in any transportation mode(s). For each mode included in the Application, the Applicant should describe where and how the proposed Corridor would (i) reduce current congestion levels or (ii) address future expected congestion based on projected travel trends and demographic changes in the proposed Corridor. The Applicant should discuss the national impact of the Corridor on freight and/or traffic congestion. The congestion reduction discussion should include all relevant data related to the proposed congestion relief benefits of the Corridor.

3. Mobility Improvements

The Application should describe how the Corridor would provide increased mobility of people and freight. Whether the proposed Corridor is on a new or existing alignment, the Application should explain how transportation technologies would be used to benefit users by reducing congestion and enhancing the mobility and efficiency of the proposed Corridor. Examples of mobility improvements include the use of intelligent transportation systems, traffic conditions monitoring, computerized traffic control systems, traveler information systems, electronic toll collection, and open road tolling.

4. Economic Benefits and Support of Commerce

The Application should explain how the proposed Corridor would support U.S. economic growth. The Application should also provide an estimate of the percentage of overall Corridor traffic that is likely to be freight traffic.

5. Value to the Users of the Corridor

The Application should describe the benefits of the proposed Corridor to its users. Potential benefits include: Reduced travel time; increased safety; faster and more convenient access to intermodal facilities, such as rail and port terminals; faster and more convenient access to terminals for commercial vehicles; environmental benefits; truck-only lanes; and increased travel speeds.

[1] Remarks made by Secretary Mineta to the National Retail Federation, May 16, 2006.

[2] In addition to the Corridors of the Future selection process, the ''National Strategy to Reduce Congestion on America's Transportation Network'' also includes the following five areas of emphasis: (1) Relieve urban congestion; (2) Unleash private sector investment resources; (3) Promote operational and technological improvements; (4) Target major freight bottlenecks and expand freight policy outreach; and (5) Accelerate major aviation capacity projects and provide a future funding framework for the aviation system.

6. Innovations in Project Delivery and Finance

The Application should highlight any innovative project delivery and financing features proposed for the Corridor. The Applicant should address the eligibility of the proposed project for credit assistance under the Transportation Infrastructure Finance Innovation Act (TIFIA) and Private Activity Bonds.

7. Exceptional Environmental Stewardship

The Application should describe any proposed innovative methods for completing the environmental review process effectively, and/or any exceptional proposed measures for avoiding or mitigating air, noise, or water impacts, or impacts to environmental or cultural resources.

8. Finance Plan and Potential Private Sector Participation

The Applicant should submit an initial plan that identifies potential sources of financing and the private sector's likely role. This may include proposals for private sector financial contribution to the proposed Corridor. Private sector participation can encompass a wide range of contractual arrangements by which public (Federal, State, or local) authorities and private entities collaborate in the financing, development, operation, and ownership of a transportation infrastructure project. Potential contractual arrangements for the Corridor include but are not limited to:

a. Long-term concessions or franchise agreements;

b. Design, Build, Operate and Maintain contracts;

c. Design Build Finance Operate contracts;

d. Build Own Operate contracts; and

e. Design Build contracts.

The Applicant should describe the efficiencies likely to result from private sector participation, as well as the process likely to be used to ensure robust competition among private financial entities

9. Proposed Project Time-Line

The Application should include a proposed project time-line with estimated start and completion dates for major elements of the proposed Corridor such as:

a. Development phase activities (planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities);

b. Construction, reconstruction, and/or rehabilitation activities; and

c. Acquisition of real property (including land related to the project and improvements to land).

The Application also should describe the results of any preliminary engineering or preconstruction activities done to date and relate it to the project time-line.

CFP Development Agreement

After a Corridor is accepted for administration under the CFP, the next major action would be to work with the coalition of States, municipalities, Indian tribal government(s), and Federal agencies (collectively referred to as the Coalition) to draft a CFP Development Agreement for the Corridor (CFPDA). The CFPDA would address the commitments of all parties to the Corridor (Federal, State, municipal and private) with respect to the financing, planning and design, environmental process, construction, operations, maintenance, and other components of the Corridor. The CFPDA would also identify the specific objectives of the Corridor and performance measures that would be used to evaluate the success of the Corridor in achieving these objectives.

DOT Resources and Commitments To Expedite the Delivery of the Corridor

If a Corridor is selected for participation in the CFP, the DOT will work with the Coalition to expedite the delivery of the Corridor. Potential DOT resources and commitments include:

A. Coordination of a More Efficient Environmental Review Process

Corridors selected for the CFP may request to be added to the Secretary of Transportation's list of high-priority transportation infrastructure projects under Executive Order 13274, ''Environmental Stewardship and Transportation Infrastructure Project Review.'' For these projects, Federal agencies shall to the maximum extent practicable expedite their reviews for relevant permits or other approvals, and take related actions as necessary, consistent with available resources and applicable laws. Information about Executive Order 13274 is available on the following Web site: *http://environment.fhwa.dot.gov/strmlng/index.asp.*

B. Accelerated Review and Conditional Approval of Experimental Features Under the FHWA SEP–15 Process

Special Experimental Project 15 (SEP–15) is designed to permit tests and experimentation in the project development process for title 23, United States Code projects. Potential areas of experimentation for CFP projects include commercialization of rights-of-way for new facilities, innovative finance, tolling and contracting requirements. More information about the SEP–15 program is available on the following Web site: *http://www.fhwa.dot.gov/ppp/index.htm.* The Department is considering further experimental programs that may apply to the approved Corridors.

C. Expedited Commitment Process for TIFIA Credit Assistance

The TIFIA program provides 3 forms of credit assistance—secured loans, loan guarantees, and standby lines of credit—for surface transportation projects of national or regional significance. Each Coalition seeking to incorporate TIFIA credit assistance as part of a Corridor finance plan can receive a preliminary TIFIA commitment under SEP–15.

The DOT would work with each Coalition to establish a preliminary plan of finance incorporating TIFIA assistance. This preliminary commitment would expedite the loan review process to be undertaken should the Coalition's selected concessionaire seek TIFIA assistance. Information about the TIFIA credit program is available on the following Web site: *http://tifia.fhwa.dot.gov/.*

D. Conditional Approval for Private Activity Bonds

Upon application for private activity bonds (PABs) under Section 11143 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59; Aug. 10, 2005), projects selected for the CFP may be granted conditional approval for PABs. Section 11143 amended the Internal Revenue Code (IRC) by adding a new exempt highway category to section 142 of the IRC, ''Qualified Highway or Surface Transportation Facilities.'' Bonds issued to provide for construction of Qualified Highway or Surface Transportation Facilities must satisfy Internal Revenue Code requirements associated with exempt facilities.

Private Activity Bonds are not subject to the general volume cap limitation for exempt facility bonds; however, they are subject to a nationwide $15 billion limitation that is allocated by the Secretary of Transportation. Subject to the project qualifying as an exempt highway or surface transportation facility project, the project's submission of a successful application for PAB authority, and subject to selection for the CFP, the Secretary will

conditionally allocate a portion of the nationwide qualified highway or surface transportation limitation to a Corridor project to facilitate its financing and construction.

E. Priority to Tolling Programs

Projects selected for the CFP will be granted priority under the limited toll programs contained in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240; Dec. 18, 1991), the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178; June 8, 1998), or SAFETEA–LU. Additionally, the DOT may consider using its experimental authority under SEP–15, or any other experimental programs that may apply, to grant flexibility with respect to tolling.

F. Access to DOT Experts

Coalitions accepted for the CFP will have access to DOT experts knowledgeable in the areas of planning, the environment, public-private partnerships, finance, construction, safety, operations, and asset management.

G. Other Discretionary Funding

The DOT will work with Applicant(s) to identify other possible discretionary funding sources.

Authority: 49 U.S.C. § 101.

Issued on: August 24, 2006.

Maria Cino,

Acting Secretary.

[FR Doc. E6–14634 Filed 9–1–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare an Environmental Impact Statement for the Southern Nevada Supplemental Airport, Clark County, NV, and To Conduct Public Scoping Meetings

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and to Conduct Public Scoping Meetings.

SUMMARY: The Federal Aviation Administration (FAA) and the Bureau of Land Management (BLM) are issuing this notice to the public that an Environmental Impact Statement (EIS) will be prepared to consider the construction and operation of a new supplemental commercial service airport in southern Nevada. In accordance with Public Law 106–362, titled: *Ivanpah Valley Airport Public Lands Transfer Act*, the FAA, representing the Department of Transportation (DOT), and the BLM, representing the Department of the Interior (DOI), will serve as joint lead Federal agencies for the preparation of this EIS.

The Clark County Department of Aviation (CCDOA), the sponsor of the project, has proposed to construct and operate a new supplemental commercial service airport (the Ivanpah Valley Airport) 30 miles south of the Las Vegas metropolitan area in the Ivanpah Valley (the Proposed Action) in order to ensure sufficient commercial service capacity for the metropolitan area. CCDOA propose that the new supplemental commercial service airport would be operational by the year 2017, and would supplement existing capacity at McCarran International Airport (McCarran Airport). CCDOA's proposal to construct a supplemental airport requires approval by the FAA. Such Federal action is subject to the National Environmental Policy Act (NEPA) and requires preparation of an EIS, which will evaluate the environmental impacts of the proposed Ivanpah Valley Airport and other reasonable alternatives for meeting the aviation needs of southern Nevada.

CCDOA has proposed to construct and operate a new supplemental commercial service airport in response to the need for supplemental commercial service to the Las Vegas metropolitan area. McCarran Airport, which is owned and operated by Clark County, is currently the primary commercial passenger and cargo airport that serves as a gateway to the Las Vegas metropolitan area and southern Nevada. The number of commercial service operations has increased substantially at McCarran Airport over the past decade, largely as a result of the rapid growth in tourism, convention business, and service industries associated with the gaming and entertainment industry in Las Vegas, as well as an increase in population. Forecasts predict continued growth in aircraft operations at rates significantly exceeding the national average.

Although McCarran Airport will be able to accommodate passenger demand in the next few years with the planned expansion and development of new terminal facilities, parking lots, and roadways, FAA forecasts indicate that by the year 2015, activity at McCarran Airport will reach 706, 684 annual aircraft operations (takeoffs or landings), representing an approximate 15 percent increase over existing operations. Without additional airfield, roadway, and terminal capacity, this level of operations would result in unacceptable levels of congestion and delay. Therefore, additional airfield, roadway, and terminal facilities would be required to meet future operations and passenger demand in the region.

FOR FURTHER INFORMATION CONTACT: Andrew M. Richards, Manager, Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010, Telephone: (650) 876–2778 and Jeffrey Steinmetz, Planning and Environmental Coordinator, Bureau of Land Management, Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, NV 89130, Telephone: (702) 515–5097. Comments on the scope of the EIS should be submitted to the addresses above and must be postmarked no later than Monday, November 6, 2006.

SUPPLEMENTARY INFORMATION: In the *Ivanpah Valley Airport Public Lands Transfer Act*, Congress directed the Bureau of Land Management (BLM), acting on behalf of the Secretary of the DOI, to transfer property in Ivanpah Valley, Nevada to Clark County for the purpose of developing an airport facility and related infrastructure. That transfer has been completed. In accordance with the *Ivanpah Valley Airport Public Lands Transfer Act*, should completion of the NEPA process lead to the determination that an airport should not be constructed at the site, it will be transferred back to BLM ownership.

The *Ivanpah Valley Airport Public Lands Transfer Act* also directed the Departments of Transportation and Interior to prepare a joint EIS ''with respect to initial planning and construction'' prior to construction of an airport facility and related infrastructure on the proposed Ivanpah site. The FAA and BLM will prepare an EIS for what is being called the Southern Nevada Supplemental Airport. The EIS will address a range of alternatives that achieve the purpose and need and that are reasonable. The range of alternatives identified during the scoping process may include alternatives other than the Proposed Action. The alternatives may include, but are not limited to, expansion of McCarran Airport and use of other existing airports. The alternatives will also include a no-action scenario as required by NEPA.

The FAA and BLM intend to use the preparation of this EIS to comply with applicable laws having public involvement requirements. Comments addressing your issues should be addressed to the listed contact persons

and must be postmarked no later than Monday, November 6, 2006.

Public Scoping Meetings: The FAA and BLM intend to conduct a scoping process to gather input from interested parties to help identify issues of concern associated with the Proposed Action. In addition to this notice, Federal, State, and local agencies, which have jurisdiction by law or have special expertise with respect to any potential environmental impacts associated with the Proposed Action, will be notified by letter of an agency scoping meeting.

To notify the general public of the scoping process, a legal notice describing the Proposed Action will be placed in newspapers having general circulation in the project area. The newspaper notice will notify the public that scoping meetings will be held to gain their input concerning the Proposed Action, alternatives to be considered, and impacts to be evaluated. The public scoping meetings are scheduled for 5 to 8 p.m. on Tuesday, October 3, 2006 at Jean Airport Special Events Center, 23600 Las Vegas Boulevard South, Jean, NV; at 5 to 8 p.m. on Wednesday, October 4, 2006, at Panos Hall, 5300 South El Camino Road, Las Vegas, NV; and 10 a.m. to 12 p.m. on Thursday, October 5, 2006 at Panos Hall, 5300 South El Camino Road, Las Vegas, NV. An agency scoping meeting will be held specifically for governmental agencies on Thursday, October 5, 2006 at Panos Hall, 5300 South El Camino Road, Las Vegas, NV. The agency meeting will be held from 2 p.m. to 4 p.m.

Further information about the EIS and the Proposed Action will be posted when available at the following Web site: *http://www.snvairporteis.com*. Written and oral comments will be accepted at each of the meetings, or can be mailed to the BLM and FAA contact for inclusion into the record. The purpose of the scoping meetings is to receive input from the public regarding the scope and process related to the EIS.

Issued in Lawndale, California, on Tuesday, August 29, 2006.

Brian Q. Armstrong,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 06–7421 Filed 9–1–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA 2006–25748]

Agency Information Collection Activities: Request for Comments for New Information Collection.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comment about our intentions to request the Office of Management and Budget (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by November 6, 2006.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2006–25748 to the Docket Clerk, by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received go to *http://dms.dot.gov* at any time or to Room 401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Julie Zirlin, 202–366–9105, Department of Transportation, Federal Highway Administration, Office of Infrastructure, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8:00 am to 4:30 pm., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Highways for LIFE Technology Partnerships Program.

Background: Section 1502 of SAFETEA–LU establishes the ''Highways for LIFE'' Pilot Program. The purpose of the Highways for LIFE pilot program is to advance longer-lasting highways using innovative technologies and practices to accomplish the fast construction of efficient and safe highways and bridges. ''Highways for LIFE'' is focused on accelerating the rate of adoption of proven technologies. The Technology Partnerships component of the program allows the FHWA to give grants or enter into cooperative agreements or other transactions to move proven but under-utilized or un-utilized market-ready technologies and methods into practice in the highway construction business. Members of the transportation industry would be required to prepare a proposal describing the innovation, the problem it addresses, how it differs from other products currently available, the potential for payoff, and the steps required to bring the innovation to commercialization. The proposal would be reviewed by a panel to evaluate and select proposals for ''Technology Partnerships'' funding.

Respondents: An estimated 53 Members of the transportation industry.

Frequency: The information will be collected once in the year 2007 and twice a year in 2008 and 2009.

Estimated Average Burden per Response: 24 hours per respondent per application.

Estimated Total Annual Burden Hours: It is anticipated that there will be approximately 160 applications for the duration of the three-year program for an estimated 1,280 total annual burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: August 30, 2006.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E6–14658 Filed 9–1–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Clay and St. Johns Counties, Florida

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Clay and St. Johns Counties, Florida.

FOR FURTHER INFORMATION CONTACT: Greg Hall, Transportation Engineer, Federal Highway Administration, 545 John Knox Road, Suite 200, Tallahassee, Florida 32303, Telephone 850–942–9650.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, will prepare an EIS for a proposal to connect the proposed SR 21/SR 23 Interchange (Blanding Boulevard/Branan-Field Chaffee Road) in Clay County eastward across the St. Johns River to either I–95, or to the southern extension of SR 9B in the vicinity of Racetrack Road in St. Johns County. The proposed action is based upon the population growth projections and regional transportation system needs. Alternatives under consideration include (1) Taking no action; (2) four lane roadways in Clay and St. Johns Counties with the St. Johns River crossing parallel to the existing Shands Bridge, and (3) four lane roadways in Clay and St. Johns counties with the St. Johns River crossing between the Buckman Bridge and the Shands Bridge.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed interest in this proposal. Public meetings were held in Clay and St. Johns Counties in November 2005 and August 2006. Public Workshops were held in Clay, St. Johns, and Duval Counties in August 2006. A Public Hearing will also be conducted. Public notice will be given of the time and place of the hearing. The Draft EIS will be made available for public and agency review and comment. An interagency coordination meeting was conducted in June 2006. The proposed project has received comment from agencies participating in Florida's Efficient Transportation Decision Making (ETDM) Process. These comments, and a summary of project related issues, can be viewed in the Environmental Screening Tool at *http://etdmpub.fla-etat.org/*. Additional project related information may also be viewed at the St. Johns River Crossing, Project Development & Environmental Study Web site at *http://www.sjrbridge.com/documents.htm*. There are no plans to hold a formal scoping meeting after this notice of intent to prepare an EIS. The information gained through agency meetings, the ETDM process, and public involvement will be used for scoping.

To ensure that the full range of issues related to the proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding inter-governmental consultation on Federal programs and activities apply to this program.)

Issued On: August 29, 2006.

Robert S. Wright,

Assistant Division Director, Tallahassee, Florida.

[FR Doc. E6–14621 Filed 9–1–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–497 (Sub-No. 3X)]

Minnesota Northern Railroad, Inc.-Abandonment Exemption-in Polk and Norman Counties, MN

On August 16, 2006, Minnesota Northern Railroad, Inc. (MNN), filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 17.0-mile portion of its Ada Subdivision between milepost 64.0, south of Beltrami, and the end of the line at milepost 47.0, south of Ada, in Polk and Norman Counties, MN. The line traverses United States Postal Service Zip Codes 56500, 56510, and 56517.

The line does not contain federally granted rights-of-way. Any documentation in MNN's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment–Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 4, 2006.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,300 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 25, 2006. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–497 (Sub-No. 3X), and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112. Replies to the petition are due on or before September 25, 2006.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov/*.

Decided: August 28, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–14536 Filed 9–1–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Entities Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of six newly-designated persons whose property and interests in property are blocked pursuant to Executive Order 12978 of October 21, 1995, ''Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers.'' In addition, OFAC is publishing a change to the listing of a person previously designated pursuant to Executive Order 12978.

DATES: The designation by the Secretary of the Treasury of the six persons identified in this notice pursuant to Executive Order 12978 is effective on August 29, 2006. In addition, the change to the listing of a person previously designated pursuant to Executive Order 12978 is also effective on August 29, 2006.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation,Office of Foreign Assets Control,Department of the Treasury,Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, personality *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the ''Order''), effective at 12:01 a.m. eastern daylight time on October 22, 1995. In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and Secretary of State, to play a significant role in international narcotics trafficking centered in Colombia; or (3) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to this order; and (4) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to this Order.

On August 29, 2006, the Secretary of the Treasury, in consultation with the Attorney General and Secretary of State, as well as the Secretary of Homeland Security, designated six persons whose property and interests in property are blocked pursuant to the Order.

The List of Additional Designees Follows

1. DISDROGAS LTDA. (f.k.a. RAMIREZ Y CIA. LTDA.); Carrera 38 No. 13–138 Acopi, Yumbo, Valle, Colombia; Calle 15 No. 11–34, Pasto, Narino, Colombia; Carrera 1D Bis. No. 15–55, Neiva, Huila, Colombia; Calle 39 No. 17–42, Neiva, Huila, Colombia; Apartado Aereo 30530, Cali, Colombia; NIT # 800058576–2 (Colombia); (ENTITY) [SDNT]

2. RAMIREZ ABADIA Y CIA. S.C.S., Avenida Estacion No. 5BN–73 of. 207, Cali, Colombia; NIT # 800117676–4 (Colombia); (ENTITY) [SDNT]

3. ABADIA BASTIDAS, Carmen Alicia (a.k.a. ABADIA DE RAMIREZ, Carmen Alicia); c/o DISDROGAS LTDA., Yumbo, Valle, Colombia; c/o RAMIREZ ABADIA Y CIA. S.C.S., Cali, Colombia; Calle 9 No. 39–65, Cali, Colombia; DOB 15 Jul 1934; POB Palmira, Valle, Colombia; Cedula No. 29021074 (Colombia); (INDIVIDUAL) [SDNT]

4. OTALORA RESTREPO, Edgar Marino, c/o DISDROGAS LTDA., Yumbo, Valle, Colombia; Cedula No. 5198602 (Colombia); (INDIVIDUAL) [SDNT]

5. RAMIREZ PONCE, Omar, c/o DISDROGAS LTDA., Yumbo, Valle, Colombia; c/o RAMIREZ ABADIA Y CIA. S.C.S., Cali, Colombia; Carrera 38 No. 13–138, Cali, Colombia; DOB 01 Jan 1940; POB Cali, Colombia; Cedula No. 6064636 (Colombia); Passport 6064636 (Colombia); (INDIVIDUAL) [SDNT]

6. SALINAS CUEVAS, Jorge Rodrigo, c/o DISDROGAS LTDA., Yumbo, Valle, Colombia; Calle 13B No. 37–86 apt. 201–5, Cali, Colombia; DOB 10 Dec 1945; POB Neiva, Huila, Colombia; Alt. POB Cali, Colombia; Cedula No. 14930332 (Colombia); Passport AG684621 (Colombia); (INDIVIDUAL) [SDNT]

In addition, OFAC has made a change to the following listing of a person previously designated pursuant to the Order:

RAMIREZ ABADIA, Juan Carlos, Calle 6A No. 34–65, Cali, Colombia; DOB 16 Feb 63; Cedula No. 16684736 (Colombia); Passport AD127327 (Colombia) (individual) [SDNT]

The listing now appears as the following

RAMIREZ ABADIA, Juan Carlos, Calle 6A No. 34–65, Cali, Colombia; c/o DISDROGAS LTDA., Yumbo, Valle, Colombia; c/o RAMIREZ ABADIA Y CIA. S.C.S., Cali, Colombia; DOB 16 Feb 63; Cedula No. 16684736 (Colombia); Passport AD127327 (Colombia) (individual) [SDNT]

Dated: August 29, 2006.

Adam J. Szubin,

Acting Director, Office of Foreign Assets Control.

[FR Doc. E6–14595 Filed 9–1–06; 8:45 am]

BILLING CODE 4811–37–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of an Entity Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of one newly-designated entity whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designation by the Secretary of the Treasury of one entity identified in this notice pursuant to Executive

Order 13224 is effective on August 29, 2006.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who commit, threaten to commit, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Department of Homeland Security and the Attorney General, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Department of Homeland Security and the Attorney General, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On, August 29, 2006, the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Department of Homeland Security, the Attorney General, and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, one entity whose property and interests in property are blocked pursuant to Executive Order 13224.

The additional designee is as follows:

Islamic Resistance Support Organization (a.k.a. Hayat Al-Dam Lil-Muqawama Al-Islamiya; a.k.a. Islamic Resistance Support Association), Beirut, Lebanon

Dated: August 29, 2006.

Adam J. Szubin,

Acting Director, Office of Foreign Assets Control.

[FR Doc. E6–14589 Filed 9–1–06; 8:45 am]

BILLING CODE 4811–37–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13460

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104 –13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13460, Employer/Payer Information.

DATES: Written comments should be received on or before November 6, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Employer/Payer Information.

OMB Number: 1545–1849.

Form Number: Form 13460.

Abstract: Form 13460 is used to assist filer's who have underreporter or correction issues. Also this form expedites research of the filer's problems.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Farms, Not-for-profit institutions, Federal government, and state, local, or Tribal government.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of

information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 22, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–14600 Filed 9–1–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Ruling 2000–35

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Ruling 2000–35, Automatic Enrollment in Section 403(b) Plans.

DATES: Written comments should be received on or before November 6, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Automatic Enrollment in Section 403(b) Plans.

OMB Number: 1545–1694.

Form Number: Revenue Ruling 2000–35.

Abstract: Revenue Ruling 2000–35 describes certain criteria that must be met before an employee's compensation can be reduced and contributed to an employee's section 403(b) plan in the absence of an affirmative election by the employee.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 1 hour, 45 minutes.

Estimated Total Annual Burden Hours: 175.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 22, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–14601 Filed 9–1–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–116050–99]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–116050–99, Stock Transfer Rules: Carryover of Earnings and Taxes (§ 1.367(b)–1).

DATES: Written comments should be received on or before November 6, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Stock Transfer Rules: Carryover of Earnings and Taxes.

OMB Number: 1545–1711. Regulation Project Number: REG–116050–99.

Abstract: The final regulations relates to the carryover of certain tax attributes, such as earnings and profits and foreign income tax accounts, when two corporations combine in a section 367(b) transaction.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 600.

Estimated Time Per Respondent: 8 hours.

Estimated Total Annual Burden Hours: 1,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 22, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–14602 Filed 9–1–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–45

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–45, Highly Compensated Employee Definition.

DATES: Written comments should be received on or before November 6, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notice should be directed to Allan Hopkins, at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Highly Compensated Employee Definition.

OMB Number: 1545–1550.

Notice Number: Notice 97–45.

Abstract: Notice 97–45 provides guidance on the definition of highly compensated employee (HCE) within the meaning of section 414(q) of the Internal Revenue Code, as simplified by section 1431 of the Small Business Job Protection Act of 1996, including an employer's option to make a top-paid group election under section 414(q)(1)(B)(ii). The notice requires qualified retirement plans that contain a definition of HCE to be amended to reflect the statutory changes to section 414(q).

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 218,683.

Estimated Time Per Respondent: 18 minutes.

Estimated Total Annual Burden Hours: 65,605.

The Following Paragraph Applies To All Of The Collections Of Information Covered By This Notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 18, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–14604 Filed 9–1–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–46–94]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–46–94 (TD 8594), Losses on Small Business Stock (§ 1.244(e)–1).

DATES: Written comments should be received on or before November 6, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue

Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–3179, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Losses on Small Business Stock.

OMB Number: 1545–1447.

Regulation Project Number: CO–46–94.

Abstract: Section 1.1244(e)-1(b) of the regulation requires that a taxpayer claiming an ordinary loss with respect to section 1244 stock must have records sufficient to establish that the taxpayer satisfies the requirements of section 1244 and is entitled to the loss. The records are necessary to enable the Service examiner to verify that the stock qualifies as section 1244 stock and to determine whether the taxpayer is entitled to the loss.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 2,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 18, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–14606 Filed 9–1–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1138

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1138, Extension of Time for Payment of Taxes by a Corporation Expecting a New Operating Loss Carryback.

DATES: Written comments should be received on or before November 6, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Extension of Time for Payment of Taxes by a Corporation Expecting a New Operating Loss Carryback.

OMB Number: 1545–1035.

Form Number: 1138.

Abstract: Form 1138 is filed by corporations to request an extension of time for the payment of taxes for a prior tax year when the corporation believes that it will have a net operating loss in the current tax year. The IRS uses Form 1138 to determine if the request should be granted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,033.

Estimated Time Per Respondent: 4 hrs., 49 min.

Estimated Total Annual Burden Hours: 9,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 22, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–14607 Filed 9–1–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 9117

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9117, Excise Tax Program Order Blank for Forms and Publications.

DATES: Written comments should be received on or before November 6, 2006, to be assured of consideration.

ADDRESSES: Direct all written comments to Glen P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of form and instructions should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Excise Tax Program Order Blank for Forms and Publications.

OMB Number: 1545–1096.

Form Number: 9117.

Abstract: Form 9117 allows taxpayers who must file Form 720 returns a systemic way to order additional tax forms and informational publications.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 15,000.

Estimated Time Per Respondent: 2 minutes.

Estimated Total Annual Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 22, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–14608 Filed 9–1–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[No. 2006–32]

Community Reinvestment Act; Questions and Answers Regarding Community Reinvestment; Notice

AGENCY: Office of Thrift Supervision (OTS).

ACTION: Notice.

SUMMARY: This notice revises OTS guidance relating to the Community Reinvestment Act (CRA).

DATES: *Effective date:* September 5, 2006.

FOR FURTHER INFORMATION CONTACT: Celeste Anderson, Senior Program Manager, Operation Risk, (202) 906–7990; Richard Bennett, Counsel, Regulations and Legislation Division, (202) 906–7409, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

To help savings associations meet their responsibilities under the CRA and to increase public understanding of the CRA regulations, OTS, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve (Board), and the Federal Deposit Insurance Corporation (FDIC) have previously published guidance in the form of questions and answers about the CRA regulations. That guidance is intended to provide the informal views of agency staff for use by examiners and other agency personnel, financial institutions, and the public, and is supplemented periodically. *See* Interagency Questions and Answers Regarding Community Reinvestment, 66 FR 36620 (July 12, 2001) (2001 Interagency Q&As).

Today, OTS is issuing questions and answers to provide additional guidance for savings associations. OTS proposed this guidance on April 12, 2006. (70 FR 18807). Today's final guidance is identical to the proposed OTS guidance and very similar to final guidance jointly issued by the OCC, Board, and FDIC on March 10, 2006 (71 FR 12424). However, as with OTS's proposal, today's final guidance only includes questions and answers that pertain to OTS's revised definition of ''community development'' and certain other provisions of the CRA rule that are common to all four agencies. It does not include questions and answers that pertain to additional revisions the OCC, Board, and FDIC made to their CRA rules in their August 2, 2005 rulemaking (70 FR 44256), since OTS has not adopted those revisions to date. Other minor wording differences between OTS's guidance and that of the other agencies were highlighted in the preamble to OTS's April 12, 2006 notice.

As in the 2001 Interagency Q&As, the questions and answers are grouped by the provision of the CRA regulations that they discuss and are presented in the same order as the regulatory provisions. As a result of technical changes made to the four federal banking agencies' CRA rules (70 FR 15570 (March 28, 2005)) and recent revisions to OTS's CRA rule, some of the numbering in the 2001 Interagency Q&As no longer corresponds to the appropriate sections of the revised regulation. However, in today's questions and answers, if a reference is made to an existing question and answer, the number of the existing question and answer, as published in the 2001 Interagency Q&As, is given, even if the old reference does not

accurately describe the current provision in the regulations. OTS staff is working to update the 2001 Interagency Q&As and will correct the citation references in a revised integrated document containing all the questions and answers.

II. Comments on Proposed Questions and Answers

OTS received 21 comment letters on its proposed guidance. Two were from financial institution trade associations. Eighteen were from entities that could generally be described as organizations that advocate for community reinvestment or affordable housing or that provide or finance affordable housing. One was from an individual whose personal or professional interest in CRA was unclear and who simply recommended continued government supervision of thrift institutions for CRA compliance.

The proposed guidance was generally well received by commenters. Indeed, the most common comment from organizations was not about the proposed guidance *per se*, but about the CRA rule itself. These commenters urged OTS to make further conforming amendments to its CRA rule so that OTS's CRA rule would once again be consistent with those of the other agencies. In particular, these commenters urged OTS to adopt the intermediate small institution test and add the regulatory provision elaborating on illegal or discriminatory lending practices that count unfavorably in an institution's CRA evaluation. One also specifically urged OTS to eliminate the flexible weight option for large, retail savings associations.

One financial institution trade association and a few organizations expressed concerns about the extent to which the guidance emphasizes activities that benefit low- and moderate-income individuals. The trade association argued that the guidance overemphasizes activities that can be documented as benefiting low- and moderate-income individuals. It pointed out that in non-metropolitan areas, low- and moderate-income census tracts are not as segregated as they are in large metropolitan areas and identifying low- and moderate-income individuals who will benefit from a program is not easy. It explained that community banks conduct activities that benefit an entire community but may not have sufficient data to demonstrate particular benefit to low- and moderate-income individuals. Accordingly, it advocated that any activity that benefits an entire community should be granted CRA credit, regardless of whether it can be demonstrated to serve low- and moderate-income individuals. It argued that, particularly with respect to activities that assist in disaster recovery, it is not appropriate to focus on whether an activity benefits low- and moderate-income areas but rather on whether it benefits the community at large.

In direct contrast, the organizations emphasized the need to keep CRA focused on low- and moderate-income families and communities. Some suggested that all the agencies' CRA questions and answers should be clearer in this emphasis.

The trade association also urged the agencies to publish a list of designated disaster areas for ease of reference, rather than making the public rely on the list published by the Federal Emergency Management Agency (FEMA) on its Web site. It also urged the agencies to continually update the lists in the guidance of community development services and qualified investments, commenting that the lists are helpful. One organization proposed a number of changes that would make OTS's questions and answers less consistent with those of the other agencies.

III. Final Questions and Answers

Having considered the comments, OTS has decided to finalize the guidance as proposed. OTS's approach with these questions and answers is to make them as consistent as possible with those of the other agencies, given that some differences are necessary because of differences in the CRA rules themselves. Since OTS is adopting the questions and answers as proposed without any changes, it does not repeat the detailed discussion of each of the questions and answers that it included in the preamble to its April 12, 2006 proposal. Instead, OTS refers interested readers to that document.

As discussed above, the organizations who commented urged OTS to make further conforming amendments to its CRA rule so that it once again would be consistent with those of the other agencies. OTS is still considering whether to do so.

With respect to commenters who expressed opposing views on the extent to which the guidance should emphasize activities that benefit low- and moderate-income individuals, OTS believes the guidance, uniform among all agencies, strikes the appropriate balance. As discussed in Q&A sections 563e.12(g)(4)–2, 563e.12(g)(4)(ii)–2, and 563e.12(g)(4)(iii)–3, OTS generally will consider all activities that revitalize or stabilize a distressed nonmetropolitan middle-income geography or designated disaster area, but will give greater weight to those activities that are most responsive to community needs, including needs of low- or moderate-income individuals or neighborhoods. Also, as discussed in Q&A section 563e.12(g)(4)(iii)–4, OTS will consider activities to revitalize or stabilize an underserved nonmetropolitan middle-income geography if they help to meet essential community needs, including the needs of low- or moderate-income individuals.

With regard to the comment on identifying designated disaster areas, at this time OTS believes the quickest and most reliable way for the public to determine which geographies are in designated disaster areas is to refer to FEMA's Web site *www.fema.gov.* As explained in Q&A section 563e.12(g)(4)(ii)–1, geographies encompassed by a Major Disaster Declaration count except for those counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures). With regard to the comment on updating the lists of community development services and qualified investments that qualify for CRA credit, OTS anticipates updating CRA guidance as appropriate.

Q&A section 563e.12(g)(4)(ii)–2 explains activities that revitalize or stabilize and designated disaster area. These include activities that provide housing, financial assistance, and services to individuals who have been displaced from designated disaster areas (*e.g.*, where a savings association assists displaced individuals who evacuate into its assessment area).

Finally, OTS wishes to highlight one aspect of CRA credit for activities that revitalize or stabilize designated disaster areas that is not specifically discussed in the questions and answers but has been addressed in other guidance. This issue has to do with geographical limits on the availability of credit for disaster relief efforts.

In a December 20, 2005 memorandum to all chief executive officers, OTS indicated it would favorably consider activities by savings associations that revitalize or stabilize the areas stricken by Hurricanes Katrina and Rita, even if those areas are outside the association's assessment area or the broader statewide or regional area. OTS CEO Mem. #232 (December 20, 2005), available at *http://www.ots.treas.gov/docs/2/25232.pdf.* OTS indicated that while the CRA regulation does not set forth an expectation for savings associations to engage in activities outside their assessment areas or broader statewide or

regional areas, given the magnitude of these disasters and their impact on the country, if any association elected to engage in such activities, OTS would favorably consider them. That guidance was limited in application to that unique situation.

The text of OTS's revisions to the Interagency Questions and Answers Regarding Community Reinvestment follows:

Section 563e.12(g)(4) Activities That Revitalize or Stabilize

Section 563e.12(g)(4)–1: Is the same definition of community development applicable to all savings associations?

Yes, one definition of community development is applicable to all savings associations.

Section 563e.12(g)(4)–2: Will activities that provide housing for middle-income and upper-income persons qualify for favorable consideration as community development activities when they help to revitalize or stabilize a distressed or underserved, nonmetropolitan middle-income geography or designated disaster areas?

An activity that provides housing for middle- or upper-income individuals qualifies as an activity that revitalizes or stabilizes a distressed nonmetropolitan middle-income geography or a designated disaster area if the housing directly helps to revitalize or stabilize the community by attracting new, or retaining existing, businesses or residents and, in the case of a designated disaster area, is related to disaster recovery. OTS generally will consider all activities that revitalize or stabilize a distressed nonmetropolitan middle-income geography or designated disaster area, but will give greater weight to those activities that are most responsive to community needs, including needs of low- or moderate-income individuals or neighborhoods. For example, a loan solely to develop middle- or upper-income housing in a community in need of low- and moderate-income housing would be given very little weight if there is only a short-term benefit to low- and moderate-income individuals in the community through the creation of temporary construction jobs. (A housing-related loan is not evaluated as a ''community development loan'' if it has been reported or collected by the institution or its affiliate as a home mortgage loan, unless it is a multifamily dwelling loan. *See* 12 CFR 563e.12(h)(2)(i) and Q&A section ____.12(i) & 563e.12(h)–2.) OTS will presume that an activity revitalizes or stabilizes such a geography or area if the activity is consistent with a bona fide government revitalization or stabilization plan or disaster recovery plan. *See* Q&A section ____.12(h)(4) & 563e.12(g)(4)–1 and Q&A section ____.12(i) & 563e.12(h)–4.

In *underserved* nonmetropolitan middle-income geographies, activities that provide housing for middle- and upper-income individuals may qualify as activities that revitalize or stabilize such underserved areas if the activities also provide housing for low- or moderate-income individuals. For example, a loan to build a mixed-income housing development that provides housing for middle- and upper-income individuals in an underserved nonmetropolitan middle-income geography would receive positive consideration if it also provides housing for low- or moderate-income individuals.

Section 563e.12(g)(4)(ii) Activities That Revitalize or Stabilize Designated Disaster Areas

Section 563e.12(g)(4)(ii)–1: What is a ''designated disaster area'' and how long does the designation last?

A ''designated disaster area'' is a major disaster area designated by the Federal Government. Such disaster designations include, in particular, Major Disaster Declarations administered by the Federal Emergency Management Agency (FEMA) (*http://www.fema.gov*), but exclude counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures).

Examiners will consider savings association activities related to disaster recovery that revitalize or stabilize a designated disaster area for 36 months following the date of designation. Where there is a demonstrable community need to extend the period for recognizing revitalization or stabilization activities in a particular disaster area to assist in long-term recovery efforts, this period may be extended.

Section 563e.12(g)(4)(ii)–2: What activities are considered to ''revitalize or stabilize'' a designated disaster area, and how are those activities considered?

OTS generally will consider an activity to revitalize or stabilize a designated disaster area if it helps to attract new, or retain existing, businesses or residents and is related to disaster recovery. An activity will be presumed to revitalize or stabilize the area if the activity is consistent with a *bona fide* government revitalization or stabilization plan or disaster recovery plan. OTS generally will consider all activities relating to disaster recovery that revitalize or stabilize a designated disaster area, but will give greater weight to those activities that are most responsive to community needs, including the needs of low- or moderate-income individuals or neighborhoods. Qualifying activities may include, for example, providing financing to help retain businesses in the area that employs local residents, including low- and moderate-income individuals; providing financing to attract a major new employer that will create long-term job opportunities, including for low- and moderate-income individuals; providing financing or other assistance for essential community-wide infrastructure, community services, and rebuilding needs; and activities that provide housing, financial assistance, and services to individuals in designated disaster areas and to individuals who have been displaced from those areas, including low- and moderate-income individuals (*see, e.g.*, Q&A section ____.12(j) & 563e.12(i)–3; Q&A section ____.12(s) & 563e.12(r)–4; Q&A sections ____.22(b)(2) & (3)–4; Q&A sections ____.22(b)(2) & (3)–5; and Q&A section ____.24(d)(3)–1).

Section 563e.12(g)(4)(iii) Activities That Revitalize or Stabilize Distressed or Underserved, Nonmetropolitan Middle-income Geographies

Section 563e.12(g)(4)(iii)–1: What criteria are used to identify distressed or underserved, nonmetropolitan middle-income geographies?

Eligible nonmetropolitan middle-income geographies are those designated by OTS as being in distress or that could have difficulty meeting essential community needs (underserved). A particular geography could be designated as both distressed and underserved. As defined in 12 CFR 563e.12(k), a geography is a census tract delineated by the United States Bureau of the Census.

A nonmetropolitan middle-income geography will be designated as distressed if it is in a county that meets one or more of the following triggers: (1) An unemployment rate of at least 1.5 times the national average, (2) a poverty rate of 20 percent or more, or (3) a population loss of ten percent or more between the previous and most recent decennial census or a net migration loss of five percent or more over the five-year period preceding the most recent census.

A nonmetropolitan middle-income geography will be designated as underserved if it meets criteria for population size, density, and dispersion that indicate the area's population is

sufficiently small, thin, and distant from a population center that the tract is likely to have difficulty financing the fixed costs of meeting essential community needs. OTS will use as the basis for these designations the ''urban influence codes,'' numbered ''7,'' ''10,'' ''11,'' and ''12,'' maintained by the Economic Research Service of the United States Department of Agriculture.

Data source information along with the list of eligible nonmetropolitan census tracts will be published on the Federal Financial Institutions Examination Council Web site (*http://www.ffiec.gov*).

Section 563e.12(g)(4)(iii)–2: How often will the list of designated distressed or underserved, nonmetropolitan middle-income geographies be updated?

The list will be reviewed and updated annually as needed. The list will be published on the Federal Financial Institutions Examination Council Web site (*http://www.ffiec.gov*).

To the extent that changes to the designated census tracts occur, OTS has determined to adopt a twelve-month lag period. This lag period will be in effect for the twelve months immediately following the date when a census tract that was designated as distressed or underserved is removed from the designated list. Revitalization or stabilization activities undertaken during the lag period will receive consideration as community development activities if they would have been considered to have a primary purpose of community development if the census tract in which they were located were still designated as distressed or underserved.

Section 563e.12(g)(4)(iii)-3: What activities are considered to ''revitalize or stabilize'' a distressed nonmetropolitan middle-income geography, and how are those activities evaluated?

An activity revitalizes or stabilizes a distressed nonmetropolitan middle-income geography if it helps to attract new, or retain existing, businesses or residents. An activity will be presumed to revitalize or stabilize the area if the activity is consistent with a bona fide government revitalization or stabilization plan. OTS generally will consider all activities that revitalize or stabilize a distressed nonmetropolitan middle-income geography, but will give greater weight to those activities that are most responsive to community needs, including needs of low-or moderate-income individuals or neighborhoods. Qualifying activities may include, for example, providing financing to attract a major new employer that will create long-term job opportunities, including for low- and moderate-income individuals, and activities that provide financing or other assistance for essential infrastructure or facilities necessary to attract or retain businesses or residents. *See* Q&A section ____.12(h)(4) & 563e.12(g)(4)–1 and Q&A section ____.12(i) & 563e.12(h)–4.

Section 563e.12(g)(4)(iii)–4: What activities are considered to ''revitalize or stabilize'' an underserved nonmetropolitan middle-income geography, and how are those activities evaluated?

The regulation provides that activities revitalize or stabilize an underserved nonmetropolitan middle-income geography if they help to meet essential community needs, including needs of low-or moderate-income individuals. Activities such as financing for the construction, expansion, improvement, maintenance, or operation of essential infrastructure or facilities for health services, education, public safety, public services, industrial parks, or affordable housing, will be evaluated under these criteria to determine if they qualify for revitalization or stabilization consideration. Examples of the types of projects that qualify as meeting essential community needs, including needs of low-or moderate-income individuals, would be a new or expanded hospital that serves the entire county, including low- and moderate-income residents; an industrial park for businesses whose employees include low-or moderate-income individuals; a new or rehabilitated sewer line that serves community residents, including low-or moderate-income residents; a mixed-income housing development that includes affordable housing for low- and moderate-income families; or a renovated elementary school that serves children from the community, including children from low- and moderate-income families. Other activities in the area, such as financing a project to build a sewer line spur that connects services to a middle-or upper-income housing development while bypassing a low-or moderate-income development that also needs the sewer services, generally would not qualify for revitalization or stabilization consideration in geographies designated as underserved. However, if an underserved geography is also designated as distressed or a disaster area, additional activities may be considered to revitalize or stabilize the geography, as explained in Q&A sections 563e.12(g)(4)(ii)–2 and 563e.12(g)(4)(iii)–3.

Section 563e.12(i) Community Development Service

Section 563e.12(i)–3: What are examples of community development services?

Examples of community development services include, but are not limited to, the following:

- Providing financial services to low- and moderate-income individuals through branches and other facilities located in low- and moderate-income areas, unless the provision of such services has been considered in the evaluation of a saving association's retail banking services under 12 CFR 563e.24(d);
- Providing technical assistance on financial matters to nonprofit, tribal or government organizations serving low- and moderate-income housing or economic revitalization and development needs;
- Providing technical assistance on financial matters to small businesses or community development organizations, including organizations and individuals who apply for loans or grants under the Federal Home Loan Banks' Affordable Housing Program;
- Lending employees to provide financial services for organizations facilitating affordable housing construction and rehabilitation or development of affordable housing;
- Providing credit counseling, home-buyer and home-maintenance counseling, financial planning or other financial services education to promote community development and affordable housing;
- Establishing school savings programs and developing or teaching financial education curricula for low-or moderate-income individuals;
- Providing electronic benefits transfer and point of sale terminal systems to improve access to financial services, such as by decreasing costs, for low-or moderate-income individuals;
- Providing international remittance services that increase access to financial services by low- and moderate-income persons (for example, by offering reasonably priced international remittance services in connection with a low-cost account); and
- Providing other financial services with the primary purpose of community development, such as low-cost bank accounts, including ''Electronic Transfer Accounts'' provided pursuant to the Debt Collection Improvement Act of 1996, or free government check cashing that increases access to financial services for low-or moderate-income individuals.

Examples of technical assistance activities that might be provided to

community development organizations include:

- Serving on a loan review committee;
- Developing loan application and underwriting standards;
- Developing loan processing systems;
- Developing secondary market vehicles or programs;
- Assisting in marketing financial services, including development of advertising and promotions, publications, workshops and conferences;
- Furnishing financial services training for staff and management;
- Contributing accounting/bookkeeping services; and
- Assisting in fund raising, including soliciting or arranging investments.

Section 563e.12(t) Qualified Investment

Section 563e.12(t)–1: When evaluating a qualified investment, what consideration will be given for prior-period investments?

When evaluating a savings association's qualified investment record, examiners will consider investments that were made prior to the current examination, but that are still outstanding. Qualitative factors will affect the weighting given to both current period and outstanding prior-period qualified investments. For example, a prior-period outstanding investment with a multi-year impact that addresses assessment area community development needs may receive more consideration than a current period investment of a comparable amount that is less responsive to area community development needs.

Section 563e.12(t)–4: What are examples of qualified investments?

Examples of qualified investments include, but are not limited to, investments, grants, deposits or shares in or to:

- Financial intermediaries (including, Community Development Financial Institutions (CDFIs), Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds, and low-income or community development credit unions) that primarily lend or facilitate lending in low- or moderate-income areas or to low- and moderate-income individuals in order to promote community development, such as a CDFI that promotes economic development on an Indian reservation;
- Organizations engaged in affordable housing rehabilitation and construction, including multifamily rental housing;
- Organizations, including for example, Small Business Investment Companies (SBICs), specialized SBICs, and Rural Business Investment Companies (RBICs), that promote economic development by financing small businesses or small farms;
- Facilities that promote community development in low- and moderate-income areas for low- and moderate-income individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women's centers, and alcohol and drug recovery centers;
- Projects eligible for low-income housing tax credits;
- State and municipal obligations, such as revenue bonds, that specifically support affordable housing or other community development;
- Not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as counseling for credit, home-ownership, home maintenance, and other financial services education; and
- Organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to utilize credit or to sustain economic development, such as, for example, day care operations and job training programs that enable people to work.

Section 563e.26 Small Savings Association Performance Standards

Section 563e.26–1: When evaluating a small savings association's performance, will examiners consider, at the institution's request, retail and community development loans originated or purchased by affiliates, qualified investments of affiliates, or community development services of affiliates?

Yes. However, a small institution that elects to have examiners consider affiliate activities must maintain sufficient information that the examiners may evaluate these activities under the appropriate performance criteria and ensure that the activities are not claimed by another institution. The constraints applicable to affiliate activities claimed by large institutions also apply to small institutions. *See* Q&A section __.22(c)(2) and related guidance provided to large institutions regarding affiliate activities. Examiners will not include affiliate lending in calculating the percentage of loans and, as appropriate, other lending-related activities located in a savings association's assessment area.

This concludes the text of OTS's revisions to the Interagency Questions and Answers Regarding Community Reinvestment.

By the Office of Thrift Supervision.

Dated: August 23, 2006.

John M. Reich,

Director.

[FR Doc. E6–14648 Filed 9–1–06; 8:45 am]

BILLING CODE 6720–01–P

Federal Register

Tuesday,
September 5, 2006

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91, 121, and 125

Revisions to Digital Flight Data Recorder Regulations for Boeing 737 Airplanes and for Part 125 Operators; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, and 125

[Docket No.: FAA–1999–6482; Notice No. 06–12]

RIN 2120–AG87

Revisions to Digital Flight Data Recorder Regulations for Boeing 737 Airplanes and for Part 125 Operators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental Notice of Proposed Rulemaking (SNPRM).

SUMMARY: The FAA is revising a previous proposal to increase the number of digital flight data recorder (DFDR) parameters required for all Boeing 737 series airplanes. Based on safety recommendations from the National Transportation Safety Board (NTSB) following the investigations of two accidents and other incidents involving 737s, the FAA proposed the addition of flight recorder equipment to monitor the rudder system on 737s. Since that time, the FAA has mandated significant changes to the rudder system on these airplanes. Accordingly, this new proposed rule would apply to a different set of airplanes than originally anticipated. We are requesting comment on this change in applicability and are requesting updated economic information regarding installation of the proposed monitoring equipment. The original proposed rule also sought to amend the flight data recorder (FDR) requirements of part 125 that would affect all airplanes operated under that part or under deviation from that part; we have included that same proposal in this SNPRM.

DATES: Send your comments on or before December 4, 2006.

ADDRESSES: You may send comments identified by Docket Number FAA–1999–6482 using any of the following methods:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Fax:* 1–202–493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical issues: Timothy W. Shaver, Avionics Systems Branch, Aircraft Certification Service, AIR–130, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 385–4686; facsimile (202) 385–4651; e-mail *tim.shaver@faa.gov.* For legal issues: Karen L. Petronis, Senior Attorney, Regulations Division, AGC–200, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3073; facsimile (202) 267–7971; e-mail: *karen.petronis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD–ROM, mark the outside of the disk or CD–ROM and also identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the FAA's Regulations and Polices Web page at *http://www.faa.gov/regulations_policies/;* or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number or amendment number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at *http://www.faa.gov/avr/arm/sbrefa.htm,* or by e-mailing us at *-AWA-SBREFA@faa.gov. http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701. Under that section, the FAA is charged with prescribing regulations providing minimum standards for other practices, methods and procedures necessary for safety in air commerce. This regulation is within the scope of that authority since flight data recorders are the only means available to account for aircraft movement and flight crew actions critical to finding the probable cause of incidents or accidents, including data that could prevent future incidents or accidents.

I. Background

A. Statement of the Problem

Two aviation accidents in the United States involving Boeing 737 series airplanes (737s) appear to have been caused by a rudder hardover with resultant roll and sudden descent: United Airlines flight 585, near Colorado Springs, Colorado, on March 3, 1991, and USAir flight 427, near Aliquippa, Pennsylvania, on September 8, 1994. Following lengthy investigations, the NTSB determined that the rudder on 737s may experience sudden uncommanded movement, or movement opposite the pilot's input, which may cause the airplane to roll suddenly. Other incidents of suspected uncommanded rudder movement have been reported, including a 1996 incident involving Eastwind Airlines (Eastwind) flight 517, a 737–2H5, and five incidents in 1999 involving U.S.-registered airplanes.

The 737s involved in the United Airlines and USAir accidents, and those in the more recent incidents, were equipped with the flight data recorders required by the regulations then in effect. However, these airplanes were not required to record, nor were they equipped to provide, information about the airplane's movement about its three axes or the position of flight control surfaces immediately preceding the accident or incident. While the FAA has undertaken a series of measures designed to address the suspected rudder problems, our efforts have been limited by a lack of data that focused on the control and movement of the components of the 737 rudder system. Without more data, neither the FAA nor the NTSB can definitively identify the causes of suspected uncommanded rudder events.

B. FAA Actions

Following piloted computer simulations of the USAir accident and reports of malfunctions in the yaw damper system of 737s, the FAA mandated design changes to the rudder system of 737s. First, the FAA issued Airworthiness Directive (AD) 97–14–03 (62 FR 34623, June 27, 1997), which requires installation of a newly designed rudder-limiting device and a newly designed yaw damper system, in an effort to address possible rudder hardover situations and uncommanded yaw damper movements. Second, in response to the possibility of a secondary slide jam and rudder reversal, the FAA issued AD 97–14–04 (62 FR 35068, June 30, 1997). That AD requires operators to install a new vernier control rod bolt and a new main rudder power control unit (PCU) servo valve in each airplane.

C. Safety Recommendations: 1995–1997

Between 1995 and 1997, while investigating the USAir accident, the NTSB issued 20 safety recommendations dealing with the 737; three of those (A–95–25, A–95–26, and A–95–27) dealt specifically with upgrades to the FDR for all 737s. The NTSB stated that if either the United Airlines or the USAir 737 had recorded data on the flight control surface positions, flight control inputs, and lateral acceleration, the NTSB would have been able to identify quickly any abnormal control surface movements and configuration changes or autopilot status changes that may have been involved in the loss of control.

At the time it made its recommendations, the NTSB recognized that the 737 had flown over 92 million hours since its initial certification in December 1967, and that the airplane's accident rate is comparable to that of other airplanes of a similar type. Nonetheless, the Board concluded that the design changes made to the rudder system in accordance with the issued ADs did not eliminate the possibility of other potential failure modes and malfunctions.

D. FAA Response: 1997 Regulations

In response to these safety recommendations, the FAA published revisions to the DFDR requirements for all airplanes (Revisions to Digital Flight Data Recorder Rules; Final Rule (62 FR 38362, July 17, 1997)). The revised DFDR regulations prescribe the 88 parameters that must be recorded on DFDRs, with the exact number of parameters required to be recorded determined by the date of airplane manufacture. The number of parameters that must be recorded range from 18 for a transport category airplane manufactured on or before October 11, 1991, to 88 for airplanes manufactured after August 19, 2002.

E. NTSB's 1999 Findings and Safety Recommendations

On March 24, 1999, the NTSB issued the final report of its investigation into the crash of USAir flight 427. The NTSB determined that the probable cause of the accident was a loss of control resulting from the movement of the rudder surface position to its blowdown limit. Further, the NTSB stated that

''* * * the rudder surface most likely deflected in a direction opposite to that commanded by the pilots as a result of a jam of the main rudder PCU servo valve secondary slide to the servo valve housing offset from its neutral position and overtravel of the primary slide.''

In its March 1999 report, the NTSB concluded that the 1997 regulations for upgrading DFDRs are inadequate for existing 737s, because they do not require specific flight control information to be recorded. Because several 737 rudder-related events have been associated with the yaw damper system (which moves the rudder independent of flightcrew input), the NTSB concluded that it is important that yaw damper status (parameter 89), yaw damper command (parameter 90), standby rudder status (parameter 91), and control wheel, control column, and rudder pedal forces (parameter 88) be recorded on all 737s. The NTSB also pointed out that, for optimal documentation, the indicated parameters need to be sampled more frequently than is required currently. The NTSB stated that by recording the yaw damper's operation and the resultant rudder surface movements, a yaw damper event could be distinguished quickly from a flightcrew input or a rudder anomaly. The NTSB considers this information critical to investigating 737 incidents or accidents. The NTSB stated that if pilot flight control input forces had been recorded on the United Airlines, USAir, or Eastwind FDRs, the NTSB investigations would have been resolved more quickly and actions taken to prevent similar events would have been hastened.

On April 16, 1999, the NTSB submitted the following recommendations to the FAA regarding recording additional parameters on 737 DFDRs:

Recommendation No. A–99–28. Require that all 737s operated under part 121 or part 125 that currently have a FDAU be equipped, by July 31, 2000, with a flight data recorder system that records, at a minimum, the parameters required by the 1997 DFDR regulations applicable to that airplane, plus the following parameters: Pitch trim, trailing edge flaps, leading edge flaps, thrust reverser position (each engine), yaw damper command, yaw damper status, standby rudder status, and control wheel, control column, and rudder pedal forces. Yaw damper command, yaw damper status, and control wheel, control column, and rudder pedal forces should be sampled at a minimum rate of twice per second.

Recommendation No. A–99–29. Require that all 737s operated under part 121 or part 125 that are not equipped with a FDAU be equipped, at the earliest time practicable, but no later than August 1, 2001, with a flight data recorder system that records, at a minimum, the same parameters noted in safety recommendation No. A–99–28.

The NTSB also noted in its final report on the USAir accident that 737 flightcrews continue to report anomalous rudder behavior and that the NTSB considers it possible that another catastrophic event related to 737 rudder upset could occur.

F. FAA Response: Notice No. 99–19

The FAA agreed with the intent of NTSB Safety Recommendation Nos. A–99–28 and A–99–29 and the NTSB's concerns regarding continuing reports of rudder-related incidents on 737s. On November 9, 1999, the FAA issued Notice No. 99–19 (64 FR 63140, November 18, 1999), which proposed that all 737s be required to record the parameters listed in § 121.344(a)(1) through (a)(22), (a)(88), plus three new parameters, designated as (a)(89) through (a)(91). The new parameters are yaw damper status, yaw damper command, and standby rudder status. In addition, the FAA proposed increasing the required sampling rate for the control forces listed in current paragraph (a)(88) for 737s. The FAA proposed that all 737s equipped with a FDAU of any type as of July 16, 1996, or manufactured after July 16, 1996, comply by August 18, 2000. For all 737s not equipped with a FDAU of any type as of July 16, 1996, the FAA proposed a compliance date of August 20, 2001. The FAA noted that if it received sufficient data to support an extension, the compliance period for airplanes retrofitted to include FDAUs between July 16, 1996, and November 18, 1999, would be extended to August 19, 2002.

The FAA proposed corresponding changes to part 125 for 737s operated under that part. In addition, the FAA proposed that no deviation authority from the FDR requirements of part 125 would be granted for any model airplane, and that any previously issued deviation from the DFDR requirements of part 125 would no longer be valid. The FAA also proposed that § 91.609 be amended to reflect that all airplanes operating under part 91 under deviation authority from part 125 must comply with the DFDR requirements in part 125, notwithstanding such deviation authority.

II. Continuing Need for This Rulemaking

The original NPRM, issued by the FAA in 1999, proposed that in addition to other applicable requirements, all 737 model airplanes must record certain additional parameters of flight data, including those specifically designed to monitor rudder system components. The FAA added that it planned on issuing the final rule with an immediate effective date to address the unresolved issues with the airplane as soon as possible.

In January 2001, Boeing submitted a letter to the docket requesting that the FAA delay the release of any final rule. The request was based on Boeing's 737 Rudder System Enhancement Program (RSEP), which itself was based on an NTSB recommendation to develop a ''reliably redundant rudder system'' for the 737. Boeing stated that the RSEP changes will make the 737 rudder system functionally equivalent to the 3-actuator system found on its 757 and 767 model airplanes.

Boeing's letter states that on January 16, 2001, it presented a detailed description of its 737 RSEP changes to the NTSB. While noting that the proposed rule would be applicable to the original rudder system, not the one being developed under the RSEP, it attempted to minimize the value of a final rule that applied only to airplanes with the older system installed. Boeing also questioned whether it would still be appropriate to treat the 737 different than other airplanes once the rudder system was modified.

While the redesigned rudder control system meets the latest FAA system requirements, it remains a system unique to the 737 model airplane. In Boeing 757/767/777 model airplanes, the rudder control system has three separate actuators in separate power control units (PCU) that are always powered. The original design of the 737 rudder control system had a single input into a valve that controlled two installed actuators in the PCU. In the redesigned 737 system, there are three actuators, but they are housed in two PCUs rather than the three present in the other Boeing model airplanes. The main PCU has two actuators, each with its own valve that accepts input. The third actuator is in a standby PCU that is not normally powered unless the main PCU fails. Thus, the 737 rudder control system effectively still has only two actuators during normal flight operations, and a single actuator when the main PCU is inoperative.

Several events have occurred since the NPRM was issued in 1999, including Boeing's RSEP. One of the recommendations issued by the NTSB included the formation of an engineering test and evaluation board (ETEB) to conduct a failure analysis of

the rudder actuation control system of the 737. The 737 ETEB was formed in May 1999 and issued its final report in July 2000.

Among the key findings of the 737 ETEB are the following:

(1) The 737 rudder control system is susceptible to a number of failures and jams. These failures and jams can affect the operation of the rudder power control units and can result in uncommanded rudder motion.

(2) A number of failures and jams of the 737 rudder control system were detected in configurations on which the FAA later issued corrective action under one or more Airworthiness Directives (ADs). More than two dozen of these failures and jams (alone or in combination) have what are considered catastrophic failure effects.

(3) Even when 737s were in compliance with the ADs issued at the time, rudder control system failures and jams were still present.

(4) Most of the failure modes were discernable on both the older (classic) models and the newer (next generation) models of the 737.

(5) There were no catastrophic failure modes identified at cruise speed and altitude. One change to the hydraulic pressure system mandated by AD reduced the time an airplane was exposed to catastrophic failure modes, but exposure was not eliminated during takeoffs and landings.

Among its recommended long-term actions, the ETEB recommended that the 737 rudder system be modified to ensure that no single failure or single jam of the rudder control system would cause an uncommanded rudder motion that has catastrophic results.

The NTSB did not withdraw or change its recommendation regarding further monitoring of the rudder system on 737s, and indicated in a February 2001 letter to the FAA that it had not changed its position regarding the need for installation of the new FDR equipment ''at the earliest possible opportunity regardless of any rudder system modification.''

In November 2001, the FAA published a proposed AD that would require the installation of a new rudder control system (and accompanying changes to nearby systems) (66 FR 56783, November 13, 2001). The FAA determined that the inherent failure modes in the 737 rudder system, verified by the ETEB, result in a design system architecture that is unsafe. The FAA also determined that the rudder system design architecture led to a need for non-normal operational procedures, which had also been implemented by AD. The FAA concluded that the combination of the inherent failure modes and the non-normal operational procedures, considered together, present an unsafe condition that warranted the incorporation of a newly designed rudder control system.

The final rule AD was published on October 7, 2002 (67 FR 62341), with an effective date of November 12, 2002, and gives all operators of 737 model airplanes 6 years to install a new rudder control system.

Boeing has been installing the newly designed rudder control system on 737 model airplanes manufactured since January 2003. Boeing is also installing the additional sensors that were proposed in the NPRM on these newly manufactured 737s, and those parameters are being recorded.

When we began drafting a final rule, we realized that the 737 fleet that would be affected by the proposed rule—those airplanes with the original rudder system—had already begun to shrink in number. The promulgation of several Airworthiness Directives means that by the 2008 compliance date for those ADs, no 737 aircraft left in the U.S. fleet would have the old rudder system. Therefore, we no longer find it appropriate to require the installation of flight recorder equipment to monitor those parts of the aircraft which became life-limited by these ADs and will be eliminated by 2008.

This SNPRM attempts to address the changes in circumstances introduced by the RSEP, the findings by the ETEB, and the ADs issued by the FAA by revising the fleet of airplanes affected by the proposed rule, and by changing the proposed compliance time to coincide with the modifications required by the ADs.

The FAA does not have convincing evidence that the redesigned rudder control system obviates the need for the additional flight recorder parameters. The newly designed rudder system is unique in that the third actuator is only activated upon the failure of the main PCU, at which point the two main actuators are no longer performing. Thus, the FAA has tentatively concluded that the information that would be gathered by the addition of the proposed parameters could provide meaningful information in the event of a rudder control failure. While the ETEB conducted considerable testing of the 737 aircraft and its rudder system, those tests cannot duplicate the actual flight experience of either the original or the new rudder system as it would be recorded using the parameters proposed. The only way to get this data is by installation of equipment that will record the movement of the rudder surface and the companion actions of the yaw dampers. The ETEB did not have this information because the equipment to record it was not mandatory. Since the additional parameters have yet to be installed, investigators of an accident or incident remain similarly limited today.

Boeing has indicated that there have been no reports of rudder hardover incidents on 737s with the redesigned rudder system. However, since the system has only been installed as original equipment on airplanes since 2003, and since compliance with the retrofit is not required until 2008, only limited historical data on the function and reliability of this redesigned system is available.

Additionally, as discussed above, the redesigned rudder system does not actively power three actuators. Rather, the third actuator only powers up in the event of a power failure to the two primary actuators. Thus, while the new design incorporates three actuators, similar to the design of Boeing's 757/767/777 model airplanes, a functional difference remains between the new 737 rudder system and that installed on other Boeing airplanes.

We note that the rudder control system enhancement can be split into three separate tasks and are not normally accomplished at once. The first two changes can be accomplished with the old rudder control system still in place. As of August 2004, Boeing had shipped 2,957 kits needed for the first part of the installation, but only 728 kits for the third part. The FAA assumes these numbers have gone up; however, since there is no reporting requirement for compliance with the AD, we have no way of knowing how many new components or complete rudder control systems have been installed. However, the FAA understands that the wiring kit provided by Boeing for the first part of the redesigned rudder system includes the wiring required for the proposed additional sensors, making the installation of the parameters less burdensome than originally anticipated. Compliance with this rule, if adopted, would require the installation of the sensors and their connection to the DFDR system. These circumstances argue for either the issuance of this rule (to take advantage of the work yet to be accomplished on the majority of the 737 fleet) or withdrawal, as soon as possible.

We continue to believe that unless the proposed additional flight recorder sensors are installed and the function of the new system components are monitored, there will never be any means to eliminate the rudder system as a possible cause of any future incident

or accident, or to identify the particular component or action as a source of the problem if the rudder control system is involved. These are the circumstances that spurred the original NTSB recommendations on the 737, but we are cognizant of the significant changes in circumstances that have occurred in the last five years, including the mandated changes to the original rudder system, and the decline in reported incidence of rudder hardover events.

We are also aware that we now need new information on the costs and benefits of requiring these enhancements on a fleet of aircraft that did not exist when we originally proposed the rule, those with the new rudder system installed.

The FAA originally evaluated the cost data associated with this SNPRM nearly five years ago, shortly after the close of the comment period for the NPRM. Since then, some 737s may have been retrofitted with the new rudder, and may be partially equipped to record the additional flight data parameters. Further, with the introduction of the new Boeing 737 rudder, there is a new class of airplane that will incur retrofitting costs that may be different from those costs reported by the industry and used in the Supplemental Preliminary Regulatory Evaluation (Supplemental PRE) that accompanies this rulemaking document. Because the FAA does not have the data necessary to evaluate the impact of, and need for, a rule requiring the additional parameters for those 737s equipped with the new rudder control system, the agency requests more current information for the following specific questions as well as any additional data that the public believes needs to be incorporated into the economic analysis.

1. How many 737s are in your fleet?

2. How many 737s do not record the flight parameters that we are proposing be recorded? How many 737s currently record these parameters?

3. How many 737s have been retrofitted with the new Boeing rudder? How many of those airplanes do not record the flight data parameters that we propose to be recorded?

4. How many 737s are expected to be retrofitted with the new Boeing rudder in each of the years 2006, 2007, and 2008?

5. How many 737s are expected to be retired in each of the years 2006, 2007, and 2008?

6. For those 737s that have already been retrofitted under the AD but do not record the additional flight data parameters, how much would it cost to install the equipment to record the additional flight data parameters? How many days would it take to install the equipment to record those additional flight data parameters on those airplanes if the work were done: during a major maintenance session; an overnight maintenance session?

7. Are the assumptions and estimates made in Table 1 of this notice and the accompanying Supplemental PRE, and throughout that report, accurate? If you are able to provide more current data, please submit it.

8. Please provide an update on the status of the various design changes that would still need to be accomplished to provide the information necessary to install the proposed flight recorder parameters on the fleet expected to be retrofitted with the new rudder design.

We are issuing this SNPRM to gather information on the need for flight recorder parameters that monitor the new rudder system. This proposal represents a shift in the scope of the rule. When the DFDR enhancements were proposed, work was still in progress in diagnosing the functions and perceived weaknesses of the original rudder system. We have modified the original proposed regulatory text to require that the flight recorder parameters proposed in 1999 be installed concurrent with the new rudder system; we have redrafted the rule to state that compliance would be required no later than November 12, 2008, the date that compliance is required with the Airworthiness Directives mandating the installation of the redesigned rudder system. We have made other changes to the proposed regulatory text based on comments to the NPRM. These changes, which are explained later in the document, will not be revisited. Accordingly, we request interested parties to direct their attention to our requests for data, the need for additional parameters for the redesigned 737 rudder control system, and the proposed November 2008 compliance date.

In summary, the FAA finds this supplemental proposal necessary in order to update the status of the number and configuration of 737s in the current fleet. Since we do not track operator compliance with ADs, the information requested here will tell us how many airplanes have been retrofitted with the new rudder system and the estimated costs for installing the DFDR parameters if the new rudder system has already been installed. We expect to receive information on the number of retirements expected, as well as the number of aircraft that are already in compliance because they are new or because the proposed DFDR rudder parameters may have been installed voluntarily.

III. Summary of Comments

The FAA received 17 comments on the proposed rule. Of the 17 comments, the Air Transport Association of America, Inc. (ATA), submitted three separate comments; one of the ATA submissions included seven comments from member airlines. Only one commenter, the Air Line Pilots Association (ALPA), supports the proposed rule as published. Specifically, ALPA agreed that a potentially unsafe condition has been identified and concurs with the proposed amendments. The other commenters generally supported the intent of the proposed rule; however, these commenters expressed concern about:

(1) The time frame for compliance proposed in the Notice of Proposed Rulemaking (NPRM),

(2) the availability of installation instructions,

(3) the unavailability of parts, and

(4) the probability of considerable airplane out-of-service time.

The amount of time that has elapsed since comment was invited, and the events that have occurred since comment was invited, has caused most of the comments to become outdated. The proposed compliance times are no longer applicable, nor are the costs that were applied to them. Accordingly, we are not including a discussion of comments concerning compliance time, parts availability, or out of service time since these issues no longer exist under current circumstances.

Comments on Specific Proposed Requirements

The following disposition of comments addresses those comments that were not overtaken by intervening events and actions. Some of the questions and information submitted with them remain relevant to the actions contemplated under this modified proposal.

Boeing stated that it typically does not develop or commit to design changes until the release of a final rule. However, because of the proposed short time frame for compliance, Boeing had already implemented production design changes in an attempt to accommodate the expected compliance schedule. Boeing noted that a typical design change of this magnitude would require a minimum of 18 months to allow time to develop the design and to work with parts suppliers, operators, and the FAA.

A. Compliance Issues for Rudder Pedal Forces

Proposal: The FAA stated in Notice No. 99–19 that it had received inquiries from the NTSB and Boeing concerning an acceptable means of recording the rudder pedal control input forces required by paragraph (a)(88) of § 121.344; the requirement was added in the 1997 amendment to the DFDR regulations.

To meet the 1997 regulations, Boeing developed a rudder pedal force transducer that is placed ''midstream'' in the rudder control system. The transducer is designed to identify whether the input was coming from the cockpit or from the rudder assembly.

The NTSB indicated informally that it would prefer a system that measures the rudder input force at the individual rudder pedals. This would require the addition of four transducers (one on each rudder pedal) rather than the single one designed by Boeing. The FAA noted that the NTSB believes that only the installation of four rudder pedal force sensors would meet the intent of its April 16, 1999 recommendation to record rudder input force.

The FAA acknowledged the difference between the data acquired using Boeing's already approved single transducer system and the NTSB's suggested four-pedal sensor retrofit. The FAA requested comment on the necessity and feasibility of instrumenting all four rudder pedals on 737s with force sensors as a means of complying with paragraph (a)(88). The FAA also requested comment on whether Boeing's single force transducer should remain an accepted means of compliance with parameter 88 for all 737s that do not have the transducer installed or had not yet otherwise complied with paragraph (a)(88). In addition, the FAA requested cost data for the four-pedal retrofit to determine whether the incremental increase in benefits that would be provided by that configuration would be offset by the additional time and costs involved if such a requirement were mandated.

Comments: The FAA received two comments on recording rudder control inputs, one from the NTSB and one from Boeing.

The NTSB stated that the rudder pedal force exerted by each crewmember is critical to its understanding the loss of control problems experienced in the 737. The NTSB added that in its investigation of a 1999 rudder incident involving Metrojet, not knowing the amount of rudder pedal force exerted has made it impossible to separate pilot actions from (possible) rudder system anomalies. The Board argued that a single sensor placed midstream in the rudder control system, as introduced by Boeing, would not identify whether the flightcrew inputs are in opposition to each other or whether the nose wheel steering (NWS) or some other system anomaly forward of the sensor causes the inputs. In addition, any jams in the controls between the pedals and the sensor may go undetected, because the amount of force exerted by the flightcrew would not be registered by the sensor. The NTSB stated that, if the upgrade required only a single force sensor in the rudder system, the possibility would remain that the information would not be sufficient to identify some future flight control problems even after the proposed retrofit.

Boeing commented that neither the existing rule nor the proposed rule includes specific requirements that support a change to the current design to measure individual rudder pedal force. Boeing stated that the 1997 rule contained no requirement to measure any disagreement between pilot inputs. According to Boeing, the NTSB recommendations and the proposed rule suggested that the only issue is the ability to quickly distinguish a yaw damper event from a flightcrew input or a rudder anomaly. Boeing believed the current single transducer design meets this intent.

Boeing claimed the current 737 NG airplane rudder pedal design satisfies the parameter 88 requirements defined in the existing rule. Boeing added that the rudder design on 737–100 through –500 series airplanes delivered since August 1998 is identical to that on the 737 NG airplanes, and retrofit kits are available for this installation in airplanes delivered before then. Boeing noted that any change to the requirements to which this installation complies would require additional retrofit.

Boeing further stated that the proposed addition of four individual rudder pedal force sensors would require a significant number of design changes in the rudder control mechanism and to the structure of the cockpit floor. The 737 has severely limited space in the area these would be placed, which limits design options. At the time the NPRM was issued, Boeing and its suppliers had not yet been able to identify a design solution that could be implemented without significant structural and system changes that would make retrofit complex, lengthy, and costly. Boeing added that it expected the design definition and implementation of four transducers would take much longer than the implementation dates proposed.

Boeing also argued that four transducers would provide no major incremental gain in information. According to Boeing, a single transducer allows investigators to determine why the rudder moved, by pilot action or system input, but that a single transducer will not show whether a pedal jammed. The four transducers would enable Boeing to determine whether the rudder moved and may allow determination of which pedal was jammed or restricted. However, the four transducers, like the single transducer, would not permit determination of why a rudder pedal was jammed or restricted, because the jam or restriction is also ''upstream'' of the transducers.

FAA reply: Although specifically requested, the FAA did not receive any cost data or time estimates for a four-rudder-pedal sensor retrofit as described in the NPRM. While the FAA understands the NTSB's desire for the information that such rudder pedal sensors might provide, general comments from Boeing indicate that such a retrofit would be both time-consuming and costly. The FAA is unaware of a sensor currently in production that could meet the design requirements that would be necessitated by the NTSB's request. Even if such a sensor does exist, Boeing also indicated (in its comment and in discussions with the FAA) that major redesign of the aircraft might be necessary, including moving a floor beam, since there is so little space available under the rudder pedals of the 737. Such modifications would take several years to design and incorporate into the production line; the engineering for in-service airplanes would be more complicated, since changes to major structural components would mean a change to the airplane's original type design and the airworthiness certification of every affected airplane. The time that such design and retrofit would take far exceeds any recommendation of the NTSB, and argues against the NTSB's own characterization of the modification as time-sensitive.

Further, the FAA is unable to say with any certainty that the information that might be gathered by the NTSB's proposed pedal force sensors would lead to a solution to the rudder problem. The rudder pedal force sensors may well be able to identify the amount of force an individual pilot is placing on a pedal, but the amount of force does not seem to have been an issue in the noted accidents or incidents. If there is a problem in the rudder system, then the amount of force exerted in an

attempt to overcome it is less important than finding where the malfunction is occurring. If pilots are fighting each other for control using the rudder pedals, then the issue is not with the airplane itself. It is a suspected problem with the airplane itself that is the reason for proposing this rule, and the FAA has determined that continuing to allow compliance with parameter 88 using a single midstream transducer reflects the best balance of cost and information to be gained in an attempt to locate the source of the problem in a timely fashion.

Accordingly, the FAA has decided against promulgating a four-pedal sensor requirement. The agency has no basis for concluding that a retrofit of individual rudder pedal sensors would be cost beneficial when the costs themselves cannot readily be estimated without a significant investment of time and energy. Moreover, since the FAA is unable to quantify the requirements either for the equipment or the recording rate and sensitivity, any information on estimated costs becomes that much less reliable and certainly falls short of the legal requirements for imposing the eventual cost on operators.

B. Compliance Issues for the Control Column and Control Wheel

Proposal: Parameter (a)(88) requires that control wheel and control column input forces be measured and recorded. The current rule requires that airplanes with breakaway capability record both left and right side control wheel forces. The FAA noted in the preamble to the NPRM that there also are issues of acceptable means of measuring control column and control wheel forces. The FAA specifically requested comment on the means and costs of measuring these control forces under the requirements proposed in this rulemaking.

Comments: The FAA received comments from Boeing, Alaska, United Airlines, ATA, and the NTSB on the control column and control wheel systems.

Boeing stated that to comply with the existing rule for parameter (a)(88), Boeing intended to modify the control column and control wheel force transducers for DFDR application to achieve the increased force range. Boeing would also install new flight control computer hardware and software to interface with the new transducers.

Boeing stated that the retrofit for the 737–100 through –500 series airplanes is basically the same as that for the 737 NG airplanes. However, it noted the 737–100 through –500 series airplanes include two control column force transducers in the same location as the 737 NG airplanes, but that the force applied by individual pilots cannot be determined because the elevator control systems of the 737–100 through –500 series airplanes do not have a jam override device between columns.

Boeing also described the FAA-approved single-wheel force transducer design for parameter (a)(88), and stated that it meets the intent of the existing rule provided that the left and right control wheel positions also are recorded. Boeing stated that the aileron system measures both cockpit control positions, but only the left side's force. Each pilot's control inputs go through the left side force transducer, except in the event of a failure. Boeing added that because the FAA does not typically consider dual failures a likely event, the proposed configuration should be acceptable.

Boeing noted that to comply with the existing requirements for parameter (a)(88), the control wheel force transducer would have to be modified specifically for DFDR application to achieve the increased force range. New flight control computer hardware and software would have to be installed to interface with the new transducer and the force transducer stops would have to be modified to allow the additional range.

Boeing further stated the control wheel retrofit of the 737–100 through –500 series airplanes is basically the same as that of the 737 NG airplanes, except that Boeing would add a (new) second control wheel position transducer to the first officer's control wheel to allow the 737–100 through –500 series airplanes' configurations to be identical with that of the 737 NG airplanes.

The NTSB stated that although it is concerned that the current control force sensors will not meet the range and accuracy requirements of the proposed rule, suitable control force sensors were likely to be available by the then proposed compliance dates. The NTSB contended that separate sensors to measure the pilot and copilot flight control input forces must be used when breakaway features are employed (breakaway capability allows either pilot to operate the airplane independently).

Two operators of 737s and the ATA commented that as of the date of the NPRM, the required sensors had not yet been developed.

FAA reply: The primary objection raised by the commenters was that the regulation would force early compliance with parameter (a)(88) for control wheel and control column forces, and that the sensors required to record to Appendix M specifications were not available and had not yet been designed. Sensor design and availability are no longer issues since all aircraft manufactured after August 19, 2002 have been required to meet Appendix M standards for parameter (a)(88). Nor is there any need to provide for more than one sensor type since a sensor that records to Appendix M standards now exists for use in a retrofit. Accordingly, the FAA intends to adopt the rule as originally proposed, with the Appendix M standards applicable to all 737s recording all functions required by parameter (a)(88) (±70 pounds control wheel force and ±85 pounds control column force).

The FAA understands that the lateral control system on the 737 has an override device between the two control wheels that allows either pilot to operate the control wheel independently, but that the primary control path for both pilots is through the left cable control path. The right control is not usually connected and is used only in the event of a failure. A single control wheel force transducer in the left cable path records the inputs from both pilots. The FAA agrees that the single control wheel force transducer is acceptable, provided the left and right control wheel positions are also recorded. The use of a single force transducer with two position sensors is acceptable because comparison of the two position sensors allows detection of a breakout of the override between the control wheels; this breakout allows the right cable control path to become active.

C. Compliance Issues; Other Parameters

1. Standby Rudder Status

Proposal: In the NPRM, the FAA proposed to add recording of the standby rudder status. The standby rudder system is an alternative source of hydraulic power to the rudder that is used when primary hydraulic power is lost. The intent of the proposed requirement was to record whether the standby rudder system switch is in the on or off position.

Comment: Boeing believed the intent of recording the standby rudder status was to determine the actual status of the standby rudder system and not the position of any particular switch. Boeing indicated that the system should record the state of the standby hydraulic rudder shutoff valve, which also is controlled by both of the standby rudder system switches. Boeing maintained this would provide a clearer indication of the actual status of the standby rudder

system than recording whether the standby rudder switch is in the on or off position. The ATA stated that the sensors for the standby rudder status parameter have not been designed for any 737.

FAA reply: The FAA agrees with the comments and we have revised the proposed language in paragraph (a)(91) to indicate that it is the valve position that needs to be recorded for standby rudder status, not the position of the switch, as initially proposed.

2. Thrust Reverser

Proposal: Under the 1997 DFDR regulations, instrumentation of the thrust reversers (§ 121.344(a)(22)) was not required until the year 2001 for some airplanes and is not required at all for older airplanes. The proposal would require all 737s regardless of age to record the thrust reverser position.

Comment: Boeing stated that the requirement for recording thrust reverser positions would require modifications to the engine accessory unit (EAU) to monitor the thrust reverser. According to Boeing, approximately 937 737–100 and –200 airplanes will require two new PC cards and associated connectors and wiring, and approximately 250 737–300 and –400 airplanes will require four new PC cards and associated connectors and wiring if the proposal is adopted. Boeing requested that the FAA not require instrumentation of the thrust reversers for the older 737–100 through –500 series airplanes. The 737 NG airplanes would be retrofitted to record thrust reverser position. Boeing suggested specific language that could be used to codify its request.

FAA reply: The SNPRM does not incorporate Boeing's suggested change. Under § 121.344(b)(1), adopted in 1997, the only airplanes not required to record thrust reverser position, parameter (a)(22), are airplanes manufactured on or before October 11, 1991, that were not equipped with a FDAU as of July 16, 1996. All other airplanes must either be retrofitted to record, or record at manufacture, thrust reverser position.

The distinction made in § 121.344(b)(1) was introduced to prevent the oldest airplanes from having to be retrofitted with a FDAU to meet the 1997 rule, not because thrust reverser data is not important. Under this SNPRM, the other recording requirements for 737s necessitate the installation of a FDAU, eliminating the distinction made in the 1997 rule. Further, the FAA cannot accept Boeing's suggested language because it is general and would relieve not only 737s but certain other airplanes from the 1997 requirement to record parameter (a)(22). This proposal would require all 737s to record parameter (a)(22).

3. Yaw Damper Status and Yaw Damper Command

Proposal: Proposed paragraph (a)(89) would add the recordation of yaw damper status. The intent of the requirement is to determine whether the yaw damper is on or off. Proposed paragraph (a)(90) would add the recordation of yaw damper command. The intent of this requirement is to record the amount of voltage being received by the yaw damper system. This determines how much rudder movement is being commanded.

Comment: For the 737–100 through –500 series airplanes, Boeing proposed to record the yaw damper linear variable displacement transducer (LVDT) position feedback from the new yaw damper coupler through an ARINC 429 interface, and, if the DFDR capacity allows, the yaw damper command from the yaw damper coupler through an ARINC 429 interface. Boeing noted that the 737 NG airplanes record both the yaw damper command from the stall management yaw damper and the yaw damper LVDT position feedback through an ARINC 429 interface. The ATA stated that sensors for yaw damper status and yaw damper command parameters are not addressed in a retrofit service bulletin.

FAA reply: Sensors for the yaw damper status and yaw damper command parameters have been developed and have been installed in 737s manufactured since August 18, 2000. The sensors exist and the FAA continues to believe that the parameters should be required.

4. Other Issues

Proposal: The current DFDR regulation allows single-source recording for control input and control surface positions, parameters (a)(12) through (a)(14) or (a)(12) through (a)(17), depending on the date of airplane manufacture. The proposed rule eliminated the allowance to record these from a single source.

Comments: Boeing stated that § 121.344(b) and (c), as proposed, removes the allowance to permit recording parameters (a)(12) through (a)(17) from a single source and applies the full requirement of appendix M to part 121 to recording these parameters. However, paragraph (d) still permits recording parameters (a)(12) through (a)(17) from a single source.

FAA reply: Removing the allowance for recording control and surface positions from a single source was an error in the proposed rule. This SNPRM includes the single-source recording as provided in the 1997 rule. A sentence has been added in § 121.344(m) indicating that single-source recording would remain available to airplanes otherwise subject to § 121.344(b)(1), (c)(1), or (d)(1).

Proposal: The proposal removes 737s from the requirements of § 121.344(b) and (c), adds specific 737 requirements to § 121.344(d), (e), and (f), and adds new § 121.344(m).

Comments: Boeing indicated that § 121.344(d), (e), and (f), as proposed, state that all 737s must comply with the requirements in paragraphs (m)(1) and (m)(2). Boeing contended this language overlooks the requirements of paragraph (m). Boeing also did not understand why paragraphs (d), (e), and (f) were not revised as paragraphs (b) and (c) to except the 737. Boeing stated that the addition of paragraph (m) makes it unclear as to what is required for 737s and that it would be much clearer to include the additional 737 requirements in the existing applicable paragraphs. Boeing further stated that § 121.344(m), as proposed, is inconsistent with paragraphs (b), (c), and (d) in that it requires recording parameters (a)(88) through (a)(91), while paragraphs (b), (c), and (d) do not.

FAA reply: The modifications to the compliance schedule for installation of the additional parameters have removed the issue of compliance time; compliance time is no longer determined by the date of FDAU installation.

For consistency, § 121.344(b), (c), (d), (e), and (f) are similarly revised to reference the 737 requirements in § 121.344(m). The FAA has decided against putting the 737 requirements in each subparagraph because it would be cumbersome, unnecessarily repetitive, and introduce more possibilities for error.

Proposal: The note to parameter (a)(88) in current Appendix M to part 121 requires airplanes that have a flight control breakaway capability (which allows either pilot to operate controls independently) to record both control force inputs; the note also discusses sampling rates.

Comments: Boeing pointed out that the note to parameter 88 in appendix M to part 121 and appendix E to part 125 indicates that all the comments in the remarks column do not apply to the 737. Boeing believed that the note is meant to indicate that it is only the sampling interval remarks that do not apply to the 737s. The NTSB also stated that the remarks section covers, in addition to the sampling rate requirements, a

requirement to record both control force inputs for those airplanes that have a flight control breakaway capability that allows either pilot to independently operate the airplane, which still would apply to 737s.

FAA reply: The FAA agrees with Boeing, and has revised footnote 18 to clarify application of the parameter for 737s. The requirement to record both control force inputs for systems with breakaway capabilities does apply to the 737, but as discussed above, the FAA has approved the use of a single control wheel force transducer provided that both control wheel positions are recorded (although both pilot's inputs go through the left side force transducer, except in the event of a failure). Because the FAA historically has not considered a dual failure a likely event, this configuration is acceptable.

Proposal: The FAA proposed the same changes to the digital flight data recorder regulations in § 125.226 as those proposed in § 121.344. In addition, the FAA proposed the same changes to Appendix E to part 125 as those proposed to Appendix M to part 121. The FAA also proposed that airplanes operating under deviation authority from part 125 must comply with the flight data recorder requirements of part 125 for the particular aircraft. The FAA specified that this deviation requirement would apply to all aircraft and not only the 737. The FAA specifically sought comments on why the flight data recorder requirements of part 125 should not be made applicable to aircraft operated under deviation authority. In addition, the FAA sought comments from affected persons operating aircraft under deviation authority from part 125 concerning the proposed compliance schedule.

Comments: The FAA received no comments on the proposed changes to part 125. Accordingly, the changes to part 91, applicable to part 125 airplanes operated under deviation authority, and the changes to part 125 and Appendix E are proposed again here without change from the original proposal.

IV. Changes Adopted in This SNPRM

When the FAA proposed the recordation of new flight data recorder parameters in November 1999, the ETEB was still in the process of conducting its failure analysis, and other action by the agency was not yet contemplated. The ETEB's finding and the FAA's subsequent decision to issue the AD requiring replacement of the rudder system mandate that this rule be modified to account for those actions.

This proposed rule, if adopted, would require the installation of the flight recorder parameters proposed in the NPRM with the following modifications. The installation would be accomplished simultaneously with the installation of the redesigned rudder system in order to minimize the costs and out-of-service time required. The regulatory evaluation for this proposed rule has been significantly revised to include this extended compliance time. This extension of the compliance time also addresses the majority of the comments received in response to the proposed rule. Specifically, this SNPRM incorporates the following changes:

- Sections 121.344(b), (c), (d), (e), and (f) and § 125.226(b), (c), (d), (e), and (f) would be amended to indicate that all 737 model airplanes also must comply with the requirements in § 121.344(m) or § 125.226(m), respectively. Sections 121.344(m) and 125.226(m) would be added to indicate that in addition to other applicable requirements, all 737 model airplanes must record the parameters listed in paragraphs (a)(1) through (a)(22) and (a)(88) through (a)(91) in accordance with the ranges, accuracies, resolutions, and recording intervals specified in Appendix M to part 121 or Appendix E to part 125, respectively. The proposed compliance times have been changed to state that the installation of the equipment required to record these parameters must be accomplished during the installation of the modified rudder system required by AD or no later than November 2008. These sections would also reinstate the language allowing single-source recording, as discussed in the disposition of comments. The parameters that may be recorded from a single source would be determined by the age of the airplane and its applicable regulations.
- Footnote 18 would be added to parameter 88 in Appendix M to part 121 and Appendix E to part 125 and would read ''For all 737 model airplanes: The seconds per sampling interval is 0.5 per control input; the remarks regarding the sampling rate do not apply; a single control wheel force transducer installed on the left cable control is acceptable provided the left and right control wheel positions also are recorded.'' Footnote 19 would be added to parameter 88 in Appendix M to part 121 and Appendix E to part 125 and would read ''For all 737 model airplanes manufactured on or before January 31, 2001, Range values are: Full Range; Control wheel ± 15 lbs.; Control column ± 40 lbs.; and Rudder pedal ± 165 lbs.''
- Sections 121.344 (a)(91) and 125.226(a)(91) would be revised to read ''standby rudder valve status'' and in appendix M to part 121 and appendix E to part 125, the range for parameter 91 would be revised to read ''Discrete.''
- The range for the rudder pedal in parameter 88 in appendix M to part 121 would be corrected to read ''Rudder pedal ± 165 lbs.''

No 737s are exempt from this rulemaking. Airplanes that have been manufactured since January 2003 would already be incompliance with this rule because the rudder parameters proposed here would have been installed at manufacture.

V. Chronology

The following is a list of selected events relevant to 737 rudder control issues and FAA rulemaking actions:

Date	Event
December, 1967	The Boeing 737 is type certificated.
March 3, 1991	United Airlines flight 585 crashes near Colorado Springs, CO; loss of rudder control implicated, but the flight recorder was rudimentary (5 parameters recorded as required by regulation).
1993	NTSB Recommendation on the 737 rudder system.
September 8, 1994	Crash of USAir flight 427 near Aliquippa, PA.
June 9, 1996	Rudder hardover reported on Eastwind flight.
1996	FAA issues AD on flight crew procedures to overcome potential system failures.
1995–1997	NTSB issues 20 safety recommendations on the 737, three in 1995 recommending upgrades to the DFDRs.
June, 1997	FAA issues two ADs on 737 rudder system components.
February 23, 1999	USAir flight 2710 reports uncommanded rudder hardover at cruise.
March 24, 1999	NTSB final report on USAir 427 indicates loss of control from uncommended rudder hardover as probable cause; says 1997 DFDR rule changes by FAA not adequate for 737.
May, 1999	ETEB formed to conduct failure analysis on rudder control actuation system of the 737.

Date	Event
November 18, 1999	FAA NPRM proposing three new DFDR parameters for 737s, proposing compliance in 2000 or 2001 based on installed equipment.
December 20, 1999	Comment period for NPRM closes.
1999	Five rudder hardover incidents reported on 737s during the year.
July, 2000	ETEB final report finds numerous failure modes on 737 rudders, recommends modification of the entire rudder system.
September, 2000	Boeing begins its Rudder System Enhancement Program (RSEP).
January 16, 2001	Boeing makes a presentation to the NTSB on its RSEP findings.
January, 2001	Boeing submits letter to FAA rule docket requesting delay of any final rule in anticipation of final RSEP findings expected later that year.
February, 2001	In a letter to the FAA, the NTSB maintains its position on installation of new DFDR parameters on 737s as soon as possible, and regardless of rudder system modification.
February, 2001	Boeing applies for a change in type design based on its RSEP.
November 13, 2001	FAA publishes NPRM AD on modified rudder system.
October 7, 2002	FAA publishes final rule AD to install modified rudder system; compliance is due in 6 years (11/11/2008); special flight crew procedures in effect since 1996 are superseded as of installation.
January, 2003	New Boeing 737s are delivered with the new rudder system and the three DFDR rudder parameters as original equipment.

VI. Paperwork Reduction Act

This SNPRM proposes to amend the regulations to add a requirement for all 737s to record additional flight data parameters. These additional parameters are not required by the current regulations and would provide the only currently available means of gathering information that the FAA and the NTSB anticipate will help assess the cause of incidents that appear to be related to rudder anomalies on 737 airplanes.

The respondents are all U.S. certificate holders operating 737 airplanes under parts 91, 121, 125, and 129.

The required information would be electronically recorded on the DFDR each time the airplane begins its takeoff roll until it has completed its landing roll and kept until the airplane has been operated for 25 hours. The recorded data would be overwritten on a continuing basis and accessed only following an accident. This requirement would be a nominal addition to a passive information collection activity and therefore does not contain a measurable additional hour burden.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the U.S. Department of Transportation submitted the information collection requirements to the Office of Management and Budget (OMB) for its review and assignment of an OMB control number and one was assigned. However, when the control number came up for reauthorization, we decided not to renew it. If this proposed requirement is made final, we will reapply for the authorization.

VII. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, FAA policy is to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

VIII. Economic Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only if the agency makes a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards. Where appropriate, agencies are directed to use those international standards as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules. This requirement applies only to rules that include a Federal mandate on State, local, or tribal governments or on the private sector, likely to result in a total expenditure of $100 million or more in any one year (adjusted for inflation).

Based on the available information, the FAA believes that this proposed rule:

(1) Would have benefits that justify its costs and would be a ''significant regulatory action'' as defined in the Executive Order and as defined in DOT's Regulatory Policies and Procedures;

(2) Would have a significant impact on a substantial number of small entities;

(3) Would have minimal effects on international trade; and

(4) Would not impose an unfunded mandate on state, local or tribal governments or on the private sector.

The FAA has placed these analyses in the docket and summarizes them as follows.

Data Sources

The principal data sources used are the public comments from the ATA and six airlines, as well as discussions with representatives from Boeing and several airlines that operate 737s, an ATA survey of its members, avionics vendors, and repair stations that will perform some of the FDR system retrofits. In this section, the FAA addresses the public comments concerning the Preliminary Regulatory Evaluation and the economic effects of the proposed rule.

Affected Airplanes and Industries

In the November 1999 NPRM, the FAA estimated the proposed rule would affect 1,306 737s projected to be in service in the year 2000, and 2,144 737s that will be manufactured between 2001 and 2020.

In the Supplemental PRE, the FAA estimates that this proposed rule would affect 1,171 current 737s projected to be active in 2008. The FAA believes this proposal would not affect 737s in production because Boeing voluntarily manufacturers these airplanes to the rule's requirements. Currently, eight airlines (Southwest Airlines, Continental Airlines, United Airlines, Delta Airlines, U.S. Airways, American

Airlines, America West Airlines, and Alaska Airlines) operate 80 percent of the affected airplanes. One major airline (Southwest Airlines) and two national airlines (Aloha Airlines and Sun Country Airlines) operate 737s exclusively.

Benefits

The principal benefit from increasing the number of recorded flight data parameters is the increased probability that the information gathered can be used to determine more precisely the causes of future 737 rudder-related accidents. Once these causes are known, regulatory agencies and the aviation industry could effect corrective actions (*e.g.*, an airplane design modification or changes in operating procedures) that could prevent such future accidents.

In the NPRM, the FAA estimated the number of these future 737 accidents based on the assumption the historical accident rate would remain constant. The ATA and Continental Airlines disagreed by noting that the FAA issued several ADs on the 737 rudder system since 1995, and no rudder-associated accidents had happened since then. (These comments, made in 2000, do not include the 2002 AD (Number 2002–20–07) that requires 737 rudders to be retrofitted to prevent an uncommanded rudder hardover event.) Continental Airlines believed that, to the extent that the ADs have mitigated this unknown problem, an accident rate based on the pre-AD 737 historical rate will overestimate the future accident rate. The FAA agrees the historical 737 accident rate is not appropriate for this analysis. Given the recent ADs, there is insufficient information to specify the future 737 accident rate and how much this rulemaking will reduce it. As a result, the FAA has changed the approach used in the NPRM in analyzing benefits in this SNPRM analysis. Rather than predicting a number of future accidents, as was done for the NPRM, the Supplemental PRE estimates the potential quantified benefits that would occur if recording these flight data parameters would lead to the prevention of an accident. Should the FAA receive sufficient data in response to this rulemaking notice to permit it to predict a number of future accidents, it may revert to the methodology used in the preliminary regulatory evaluation supporting the NPRM.

In the NPRM, the FAA used the following values to quantify the potential benefits from a prevented 737 accident: $2.7 million for each prevented fatality, an average of 96 passengers and crew on a 737, for a resulting total of $259.2 million an airplane; $20 million for a destroyed 737; $5 million for ancillary damage to ground structures; and $31 million for the resultant government and industry accident investigation. Thus, the average potential benefit from preventing a 737 in-flight accident was estimated to be $315.2 million in 1999 dollars. There were no comments on this estimate.

In the Supplemental PRE, the FAA uses the following updated values and average 737 size to quantify the potential benefits from a prevented 737 accident: $3 million for each prevented fatality; an average of 113 passengers and crew on a 737, for a resulting total of $339 million an airplane; $17 million for a destroyed 737; $6 million for ancillary damage to ground structures; and $33 million for the resultant government and industry accident investigation. These changes are the result of increased costs, as well as an increase in the average number of passengers aboard a 737. Thus, the average potential benefit from preventing a 737 in-flight accident is about $395 million in 2003 dollars.

Significant Differences in the Economic Models Used in the Preliminary Regulatory Evaluation and the Supplemental Preliminary Regulatory Evaluation

Table 1 lists the significant differences in assumptions and values between those used in the NPRM and those in this analysis. The specific impact that each value has on the revised compliance costs is discussed in the individual compliance cost sections. Although there are other differences that have changed the calculated costs, the differences listed in Table 1 are the most significant ones.

TABLE 1.—SIGNIFICANT DIFFERENCES IN ASSUMPTIONS AND VALUES BETWEEN THE PRELIMINARY REGULATORY EVALUATION AND THE SUPPLEMENTAL PRELIMINARY REGULATORY EVALUATION

Assumption or value	Preliminary regulatory analysis	Supplemental preliminary regulatory analysis
Number of Airplanes	1,306 (in Year 2000)	1,567 (in Year 2004).
Number of Retrofitted Airplanes	1,306 (by Year 2001)	1,171 (by Year 2008).
Annual Increase in Flight Hours & Fuel Burn	4.1 percent	Varies depending on number of airplanes.
Year of First Retrofits	2000	2005.
Number of years to retrofit	18 months	4 years.
How scheduled retirements are handled	All airplanes active on the final rule date are retrofitted.	No airplane scheduled for retirement before 2008 is retrofitted.
Who does initial engineering redesign	All individual STC holders	Boeing.
Hourly Labor Rates: Engineers; Mechanics	$100; $70	$125; $85.
How recorders are affected	Newer recorders in 737 ''Classic'' airplanes can be reprogrammed at a unit cost of $10,000..	All recorders in 737 ''Classic'' airplanes must be replaced at a unit cost of $20,000.
How FDAUs are affected	Existing FDAUs in 737 ''Classic'' airplanes can be reprogrammed at a unit cost of $20,000.	All FDAUs must be replaced in 737 ''Classic'' airplanes at a unit cost of $50,000.
How FCCs are affected	No impact—no cost	Must be reprogrammed at a cost of $10,000 per airplane.
How many airplanes retrofitted during a ''C'' or ''D'' maintenance check.	33 percent	100 percent.
How many out-of-service days for a retrofit not done during a ''C'' or ''D'' maintenance check.	4–9	2–8.[1]
How many out-of-service days for a retrofit done during a ''C'' maintenance check.	2–7	0–6.
Per gallon price of aviation fuel	$0.61	$0.75.

TABLE 1.—SIGNIFICANT DIFFERENCES IN ASSUMPTIONS AND VALUES BETWEEN THE PRELIMINARY REGULATORY EVALUATION AND THE SUPPLEMENTAL PRELIMINARY REGULATORY EVALUATION—Continued

Assumption or value	Preliminary regulatory analysis	Supplemental preliminary regulatory analysis
Future production 737s	All affected at a per airplane cost of $38,900	No cost because parameters 89–91 would have been installed in the absence of the final rule.

[1] In the event we receive information that some airplanes cannot be retrofitted during a ''C'' or ''D'' check, we will use an out of service time of 2 to 8 days for FDR equipment installation. We specifically request that this estimate be verified by affected operators.

Compliance Costs for the Supplemental Rule

As summarized in Table 2, the FAA estimated in the NPRM that the cost to retrofit a 737 would vary between $41,800 and $221,950 per airplane, depending upon the 737 model, its FDR system equipment, and whether the retrofit would be completed during a ''D'' check, a ''C'' check, or would require a separate dedicated scheduled maintenance session. *See also the footnote to Table 1.*

TABLE 2.—PER AIRPLANE COMPLIANCE COST BY 737 SERIES AND FDR SYSTEM ESTIMATED IN THE PRELIMINARY REGULATORY EVALUATION

[All values in 1999 $]

737 Series	Equipment and labor costs	Out-of-service days	Out-of-service lost net revenue	Total costs and lost net revenue
200	$160,200–176,400	4–7	$250–800	$160,450–177,200
200-Advanced (No FDAU)	160,200–176,400	4–7	4,900–8,600	160,690–185,000
200-Advanced (FDAU)	68,800–90,000	2–4	2,450–4,900	71,250–94,900
300 (No FDAU)	175,200–191,400	6–9	20,375–30,550	195,575–221,950
300 (FDAU)	35,100–90,000	2–4	6,800–21,550	41,900–111,550
400 (No FDAU)	160,200–176,400	6–9	17,350–30,350	177,550–206,750
400 (FDAU)	35,100–90,000	2–4	8,675–25,250	43,775–107,350
500 (No FDAU)	175,200–191,400	6–9	20,150–30,200	195,350–221,600
500 (FDAU)	35,100–90,000	2–4	6,700–19,100	41,800–109,100
600	35,100	2–4	15,375–30,750	50,475–65,850
700	35,100	2–4	17,350–34,675	52,450–69,775
800	35,100	2–4	20,800–41,575	55,900–76,675
900	35,100	2–4	21,950–43,875	57,050–76,975

The FAA estimated in the NPRM the total costs of compliance with the proposed rule between 2000 and 2020 would be about $255 million, which had a present value of $205.4 million. Of the $255 million total costs, the one-time costs to retrofit the existing 737 fleet (engineering plus retrofitting plus losses from out-of-service time) would have been $158.7 million. If the rule had been issued on January 1, 2000, the $158.7 million would have been spent within 20 months or the airplanes would have been grounded. The increased costs to manufacture future 737s from 2000 through 2019 would have been $86 million. Finally, the increased annual costs of the additional fuel burn due to the increased weight of the airplane and the additional maintenance of the FDR system from 2000 through 2019 would have been $10.3 million.

In the Supplemental PRE, after incorporating data from the comments and updating the fleet and unit cost data, the FAA has determined that the cost per 737 will be between $189,320 and $201,320 for a 737–200, between $189,320 and $209,320 for a 737–300/400/500 that does not have a FDAU, between $142,120 and $167,120 for a 737–300/400/500 that has a FDAU, between $49,410 and $63,410 for a 737 NG that does not record parameters 89–91, and $9,475 for a 737 NG that records parameters 89–91.

The FAA has tentatively determined the total cost to comply with this SNPRM would be about $143 million between 2004 and 2014, which has a present value of about $126.5 million. Of the $143 million, about $140 million will be expended during the first 4 years for engineering costs, retrofitting costs, and out-of-service costs, $2 million will be for increased fuel consumption, and $0.7 million will be for additional FDR system maintenance. There will be minimal compliance costs for production 737s because Boeing has been voluntarily installing the capability to record the additional data required by the proposed rule since August 2000.

Summary of Factors Creating the Significant Differences Between the Estimates

There are 4 major factors that create the differences between the NPRM and SNPRM estimates.

The first factor, which increases one-time retrofitting compliance costs, is the FAA's assumption that some of the existing solid-state recorders and existing FDAUs could be reprogrammed. However, the ATA, Alaska, Aloha Airlines, Continental Airlines, Southwest Airlines, and United Airlines commented that retrofitting the FDR systems in the 737-''Classic'' series requires purchasing new recorders and new FDAUs; they cannot be reprogrammed. Boeing, American, and Aloha Airlines reported that their 737-''NG'' series recorders and FDAUs could be reprogrammed. The FAA accepts both these positions. As a new recorder costs between $10,000 and $15,000 more than a reprogrammed recorder, and a new FDAU costs $30,000 more than a reprogrammed FDAU, the impact on the total retrofitting cost is considerable.

A second factor, which lowers compliance costs, is that 135 fewer 737s will be retrofitted under the SNPRM than would have been retrofitted under the originally proposed rule.

A third factor, which lowers compliance costs, is that the FAA significantly reduces its estimated number of labor hours to retrofit FDR systems to record flight data parameters (a)(19) through (a)(22) in 737s with FDAUs. In the NPRM, the FAA estimated it would take 400 hours while the FAA now estimates that it takes 100 hours.

A final factor that lowers compliance costs is that the Supplemental PRE analysis contemplates that the flight data parameter retrofit will be performed when a 737 is retrofitted with a new rudder rather than within the 20 months originally proposed in the NPRM. Since the publication of the proposed rule, more 737s have been retired, reducing those estimated costs.

Commenters' Retrofit Cost Estimates

In the NPRM, the FAA used retrofitting costs largely provided by the industry. In the comments to the NPRM estimates, Aloha Airlines estimated a cost of $165,100 to $185,000 to retrofit its 737–200 Advanced airplanes that did not have a FDAU, $71,250 to $94,900 to retrofit its 737–200 Advanced airplanes that have a FDAU, and $52,450 to $69,775 to retrofit its 737–700 airplanes. American Airlines estimated a cost of $47,250 plus lost revenue for 2+ days out-of-service for each of its 737–800 airplanes. Continental Airlines did not report a total cost, but was in general agreement with the FAA estimates, if the FAA adjusted its costs to recognize that existing recorders and FDAUs in 737-''Classic'' airplanes cannot be reprogrammed and must be replaced. United Airlines estimated a total retrofitting cost of $24,100,000 and for its fleet of 158 737-''Classics'', for an average airplane cost of $152,500. The FAA has tentatively determined the retrofitting cost of a 737-''Classic'' ranges from $142,000 to $189,000 while the retrofitting cost of a 737-''NG'' ranges from $9,475 to $49,410.

Time to Engineer New Designs for the Retrofitted FDR Systems

In the NPRM, the FAA assumed that each STC holder would independently do all the engineering redesign. Boeing, the ATA, Alaska, Continental Airlines, Southwest Airlines, and United Airlines commented that such an approach would be inefficient and lead to duplication of effort. Industry expects Boeing to do the initial engineering work, which the STC holders would then modify for their various FDR systems. The FAA accepts those comments and has adjusted its analysis accordingly.

In the NPRM, the FAA estimated that airlines and repair stations would redesign 40 FDR systems and it would take 16 to 26 weeks and cost each FDR system holder $200,000 to complete the first FDR system redesign. As engineering data from one STC can be used in other STCs, the FAA assumed that after five such FAA approvals, an STC holder could use commonality demonstrations to reduce this cost from $200,000 to $25,000 per STC. Thus, the FAA estimated a total one-time cost of $2.95 million for the initial engineering redesign.

Boeing indicated that the FAA significantly underestimated the engineering hours required for each individual engineering analysis. Although Boeing did not provide specific estimates in its comments, the FAA has assessed the engineering analyses for the 737 series as a one-time cost of $6.6 million, which consists of 30 engineering years.

In the NPRM, the FAA assumed that three engineers working full-time for four months (one engineer year) would be needed for an FDR system redesign STC approval, at a cost of $200,000 per STC application. The FAA further estimated that 32 applications would be made for a one-time engineering cost of $7.5 million.

Aloha Airlines, Continental Airlines, Southwest Airlines, United, and U.S. Airways commented that it would take from six months to one year after Boeing completes the initial engineering analysis for them to complete their design modifications and obtain FAA approvals. They did not, however, provide an estimate of their engineering time or costs to complete these applications. In the Supplemental PRE, the FAA estimates that 15 STC applications will require one engineer year (at a cost of $250,000) to complete, while 25 of the STCs will require 250 engineer hours (at a cost of $31,250) to complete. On that basis, the calculated total STC engineering cost is $4.6 million.

Aloha Airlines stated the FAA underestimated the number of engineering analyses because each airplane ''configuration'' within a 737 series would need a separate engineering analysis. They commented that 13 of their 18 airplanes will need a $200,000 analysis. The FAA agrees that an adjustment in the cost calculations needs to be made for the different configurations. However, because much of the engineering is identical for each configuration within a 737 series, the FAA has tentatively determined that it will take half of the engineering time for a commonality demonstration STC (125 hours) for a configuration STC. The FAA has calculated a per configuration cost of $16,125. Finally, the FAA has tentatively determined that 60 of these ''configuration'' STCs will be performed because most airlines' fleets have fewer configurations than the Aloha Airlines fleet. The FAA estimates a total cost of $967,500 for this engineering.

Alaska also noted that two of the sensors had not been developed for any airplane and several other sensors had not been approved for use in many of the 737-''Classic'' airplanes. Thus, as well as the design STC approval, the FAA would also need to issue Parts Manufacturing Authorizations (PMAs) to the new sensors manufacturers. Alaska posited that although the vendors will incur most of these development costs, these costs should be included in Boeing's initial engineering costs because Boeing will be the kit supplier.

In the NPRM, the FAA estimated the total one-time engineering costs to modify the FDR system STCs and obtain FAA approval would have been $9.15 million. The FAA now calculates the total costs to modify the FDR system STCs and obtain FAA approvals are $15 million.

Equipment and Labor Costs to Retrofit FDR Systems

In the NPRM, the FAA estimated the equipment and labor costs to retrofit FDR systems for compliance with the proposed rule would be $124.3 million. Based on the comments and the revised fleet, the FAA has reduced the anticipated equipment and labor cost to comply with the final rule, if adopted, to $111.8 million.

In the NPRM, the FAA estimated that 156 737s would have their recorders replaced, while the remaining 1,150 737s would have their recorders upgraded with additional memory. The FAA estimated that: a new recorder would cost $25,000; upgrading the memory of a recorder that records 18 flight data parameters would cost $10,000; upgrading the memory of a recorder that records 22 flight data parameters would cost $5,000; and upgrading the memory of a recorder that records more than 22 parameters would cost $1,900.

ATA, Aloha Airlines, Continental Airlines, Southwest Airlines, and United Airlines commented that all of their 737-''Classics'' would have their

recorders replaced because they cannot be reprogrammed.

Accepting and incorporating industry comments, and with the increased numbers of retirements, the FAA has tentatively determined that 605 737s will need their recorders replaced and 279 737s will need their recorders reprogrammed by 2008.

Finally, Continental Airlines reported new recorder costs of $13,000 while Aloha Airlines reported a recorder cost of $25,000. In the Supplemental PRE, the FAA has assessed a cost of $20,000 per recorder, the average of these two estimates and estimates provided by avionics manufacturers.

In the NPRM, the FAA estimated that installing a new recorder would require 32 labor hours to remove the old recorder and to install and test a new recorder. Upgrading an FDR would require 16 labor hours to remove, reprogram, reinstall, and test. The FAA received no comments on this estimate and uses it in the Supplemental PRE.

In the NPRM, the FAA estimated the cost of replaced or upgraded recorders would be $17.2 million. Based on the increased recorder cost estimate and the fewer retrofitted 737s, the FAA now calculates that the total cost of replaced or upgraded recorders in this is $14.6 million, which has a present value of $12.8 million.

In the NPRM, the FAA estimated that a FDAU would be retrofitted into 496 737s that did not have one, while the existing FDAUs in 810 737s would be reprogrammed. The same commenters who addressed the issue of the recorder all agreed that, whereas the FDAUs in their 737-''NGs'' can be reprogrammed, every FDAU in their 737-''Classics'' would have to be replaced—those units cannot be reprogrammed. The FAA agrees with these comments. In the Supplemental PRE, the FAA has tentatively determined that by 2004 operators of 198 737–200s will have introduced FDAUs into their airplanes; that operators of 407 737–300/400/500s with a FDAU will have installed new FDAUs in their airplanes; and that operators of 279 737–700/800/900s will have reprogrammed their existing FDAUs.

Continental Airlines and Aloha Airlines reported a $50,000 cost for a new FDAU and a cost to reprogram a FDAU of between $7,500 and $10,000. In the Supplemental PRE, the FAA uses a cost of $50,000 for a new FDAU and an average of the two estimates ($8,750) as the cost to reprogram a FDAU.

In the NPRM, the FAA noted that retrofitting a 737 with a FDAU would require rerouting the FDR system wiring because the recorder (where the wires formerly terminated) is located aft, while the new FDAU would be in the front. Relying on estimates from Southwest Airlines and United, the FAA estimated that retrofitting a FDAU would take 200 labor hours, which includes the associated labor hours to rewire the existing FDR system. Aloha Airlines submitted the only specific comment on this issue and it agreed with the FAA estimate. Thus, the FAA continues to assume 200 labor hours to retrofit a FDAU.

In the NPRM, the FAA estimated that it would take 48 hours for a FDAU on a 737-''Classic'' airplane and 40 hours for a FDAU on a 737-''NG'' airplane to be removed, shipped to the manufacturer, reprogrammed, reinstalled, and tested. Three airlines filed comments on these estimates. Aloha Airlines reported that it will take the same number of labor hours (200) to replace an existing FDAU as it will to retrofit a FDAU in an FDR system that did not previously have one. The FAA disagrees. The effort to retrofit a FDAU is greater than the effort to install one in an airplane that did not have it. Continental Airlines estimated a cost of $71,500 for the equipment and labor costs to replace a FDAU. However, that estimate also included the cost to record the additional flight data parameters and the increased sampling rate for flight data parameter (a)(88). United Airlines similarly estimated a total labor cost of $33,000 for the entire retrofit. The numbers submitted by Continental Airlines and United Airlines do not allow the FAA to distinguish the number of labor hours to replace a FDAU from the total labor hours for the retrofit. After reviewing the comments, the FAA has increased the estimated number of labor hours to replace a 737-''Classic's'' FDAU from 48 hours to 80 hours and reduced the number of labor hours from 40 hours to 20 hours for a 737-''NG's'' FDAU.

Accordingly, the FAA calculates that the labor costs to install a FDAU in an FDR system that did not have one is $17,000; the labor costs to replace a FDAU is $6,800; and the labor costs to install a reprogrammed FDAU is $1,700.

In the NPRM, the FAA estimated the total FDAU equipment and labor costs to retrofit FDAUs would be $37.6 million. In the Supplemental PRE, the FAA calculates the total equipment and a labor cost to retrofit FDAUs at $40.9 million, which has a present value of $35.8 million.

In the NPRM, the FAA divided the equipment and labor costs for the additional wiring for adding the sensors into three components: (1) The costs to record flight data parameters (a)(19) through (a)(22); (2) the costs to record flight data parameters found in (a)(88) at the greater ranges and increased sampling rates; and (3) the costs to record flight data parameters (a)(89) through (a)(91). That division is continued in this analysis.

In the NPRM, the FAA estimated the costs of the sensors and wiring for a 737 FDR system to record parameters (a)(19) through (a)(22) were $20,000. The only specific comment received on this estimate was from Aloha Airlines, which agreed with the estimate. As a result, the FAA uses this value in the Supplemental PRE.

In the NPRM, the FAA estimated that the installation of the sensors and wiring to record flight data parameters (a)(19) through (a)(22) would take 200 labor hours for a 737–200, a 737–200 Advanced, or a 737–400 airplane. It would take 400 labor hours for a 737–300 or a 737–500 series airplane.

Boeing commented that the FAA misclassified the labor costs for the 737–400 because the avionics in that series are essentially the same as the avionics in the 737–300 and 737–500 series airplanes. These airplanes employ ARINC 700 systems, while the 737–200 and 737–200 Advanced are, basically, ''all analog'' airplanes. Boeing contended the labor time (and cost) to rewire a 737–400 airplane is similar to the labor hours (and costs) for a 737–300 or a 737–500 airplane. The FAA accepts Boeing's comment and has assigned the same number of labor hours for all the 737–300/400/500 airplanes.

As Aloha Airlines uses the same 200 labor hour estimate for its 737–200 retrofits, the FAA continues to use the 200 labor hours in the NPRM to retrofit 737–200s in the Supplemental PRE. Boeing noted that there are minor differences in the amount of wiring among all of its 737- ''Classics''. The FAA agrees and has revised its estimate for the 737–300/400/500 series retrofit to record flight data parameters from 400 labor hours to 200 labor hours. Thus, the FAA calculates the sensor and labor cost to record flight data parameters (a)(19) through (a)(22) of $17,000 for a 737-''Classic''. The total anticipated cost to record flight data parameters (a)(19) through (a)(22) is $37,000. Boeing also commented that the FAA had not specifically estimated the costs for the individual sensors and other equipment required to record flight data parameters (a)(19) through (a)(22). The FAA agrees; however, the FAA notes that the airline cost estimates were not provided on an individual sensor basis. Consequently, the FAA could not establish individual sensor cost estimates.

In the NPRM, the FAA used preliminary industry estimates that it would cost $12,000 to add the necessary sensors and wiring to record flight data parameter (a)(88) in a 737 FDR system that does not currently record it or that does not record it at the proposed range. American Airlines commented that it will cost $8,000 for the sensors to record this flight data parameter at the proposed range. The FAA accepts the American Airlines estimate and has assumed a cost of $8,000.

In the NPRM, the FAA assumed that it would cost $12,000 to replace all sensors currently recording flight data parameter (a)(88) in order to comply with the higher sampling rate requirement. Boeing, however, reported that the existing sensors can be reprogrammed to transmit information at the increased sampling rate. The FAA agrees with Boeing and has tentatively determined there will be no sensor costs to comply with the higher sampling rates for flight data parameter (a)(88).

In the NPRM, the FAA estimated that it would take 160 labor hours to install the sensors in a 737-''Classic'' FDR system that was either not recording flight data parameter (a)(88) or not recording it at the proposed range. Aloha Airlines reported a total of 360 labor hours to record flight data parameters (a)(88) through (a)(91). As three of the six flight data parameters to be recorded are found in (a)(88), the FAA has assumed that half of the labor hours reported by Aloha Airlines (180) hours will be used to install flight data parameter (a)(88) for a labor cost of $15,300 per airplane.

In the NPRM, the FAA estimated that it would take 160 labor hours to replace the sensor in a 737–''NG'' that was recording flight data parameter (a)(88) at the lower sampling rate. The FAA believes that it takes fewer labor hours to reprogram the sensor to record flight data parameter (a)(88) than it will take to introduce new sensors and wiring into a FDR system that had not previously recorded it. In the Supplemental PRE, the FAA has tentatively determined that it will take 80 labor hours (at a cost of $6,800) to install new sensors for flight data parameter (a)(88).

Boeing did not provide a labor hour estimate to install reprogrammed sensors to record at the higher sampling rate. In the Supplemental PRE, the FAA estimates that it takes one-half (40) hours to reprogram the sensors than it does to install new sensors at a labor cost of $3,400 per airplane.

The FAA also estimates that the retrofit costs to install new sensors to record flight data parameter (a)(88) are $23,300 for a 737-''Classic'' and $14,800 in a 737-''NG''. The cost to install reprogrammed sensors in a 737-''NG'' is $3,400.

Aloha Airlines and American Airlines provided sensor costs or the number of labor hours to retrofit FDR systems to record flight data parameters (a)(89), (a)(90), and (a)(91). The American Airlines comment provided aggregated data and the FAA could not disaggregate some of their costs. Aloha Airlines reported a total wiring and sensor cost of $12,000 to record flight data parameters (a)(88) through (a)(91). The FAA agrees with this estimate. As the FAA has also determined that the wiring and sensor cost to retrofit flight data parameter (a)(88) is approximately $8,000, the FAA concludes that the wiring and sensor costs to retrofit flight data parameters (a)(89) through (a)(91) should be approximately $4,000.

As noted, the FAA has determined that half of the labor time reported by Aloha Airlines is to install flight data parameter (a)(88) and half the time is to install flight data parameters (a)(89), (a)(90), and (a)(91). Thus, the FAA calculates that 180 labor hours (at a cost of $15,300) will be required to install flight data parameters (a)(89), (a)(90), and (a)(91) in a 737-''Classic''. The FAA has also assumed that 80 labor hours (at a cost of $6,800) will be required to install flight data parameters (a)(89), (a)(90), and (a)(91) in a 737-''NG''. The FAA calculates that the retrofitting costs to record flight data parameters (a)(89), (a)(90), and (a)(91) is $27,300 for a 737-''Classic'' and $10,800 for a 737-''NG''.

In the NPRM, the FAA estimated the total retrofitting sensor and wiring costs to have been: $84,000 for a 737–200 or a 737–400 airplane without a FDAU; $100,000 for a 737–300 or a 737–500 airplane without a FDAU; $49,000 for an older 737 airplane with a FDAU; and $24,000 and for a newer 737 airplane with a FDAU.

In the Supplemental PRE, the FAA estimates that the retrofitting sensor and wiring costs, per 737, are: $89,600 for a 737-''Classic'' that records 18 flight data parameters; $52,600 for a 737-''Classic'' that records 22 flight data parameters; $25,600 for a 737-''NG'' manufactured before August 2000: and $10,800 for a 737-''NG'' manufactured after August 2000.

In the NPRM, the FAA estimated that the total sensor and wiring costs to retrofit all 737 FDR systems by the compliance date would be $69 million. The FAA now calculates that the total sensor and wiring costs to retrofit all 737 FDR systems by the compliance date is $48 million, which has a present value of $42 million.

In the NPRM, the FAA did not consider (and did not estimate) any cost for reprogramming the flight control computers (FCCs). Boeing and American Airlines commented that recording the additional flight data parameters would require reprogramming the FCCs. Boeing provided no cost estimates for FCC reprogramming, but American Airlines reported that it will cost $5,000 per FCC to reprogram the 2 FCCs (for a total cost of $10,000 per airplane). The FAA accepts the American Airlines estimate and applies it to all 737s. The FAA now calculates a total cost to reprogram the FCCs of $8.8 million, which has a present value of $7.7 million.

In the NPRM, the FAA estimated that the equipment and labor costs to retrofit the existing 737 fleet were $17.2 million for recorders, $37.7 million for FDAUs, and $69.4 million for wiring and sensors, for a total cost of $124.3 million. In the Supplemental PRE, the FAA calculates that the equipment and labor costs to retrofit the existing 737 fleet are $14.7 million for recorders, $40.9 million for FDAUs, $47.2 million for wiring and sensors, and $8.8 million for FCCs, for a total cost of $111.6 million, which has a present value of $92.6 million.

Total One-Time FDR System Retrofitting Costs

In the NPRM, the FAA estimated the total one-time compliance costs and losses from out-of-service time would have been $149.6 million. Based on the comments and updated data, the FAA now calculates that the total one-time compliance costs and losses from out-of-service time would be $125.2 million, which has a present value of $109.5 million.

Annual Costs Resulting From Retrofitting 737 FDR Systems

The Supplemental PRE also contemplates annual compliance costs from: (1) Additional airplane weight due to retrofitted FDR system; and (2) additional maintenance costs to annually validate the FDAU.

In the NPRM, the FAA estimated that the proposed rule would add 40 pounds to a 737 that does not have a FDAU and records 18 flight data parameters and add 10 pounds to a 737 that has a FDAU and records at least 22 flight data parameters. In calculating the estimated additional fuel cost, the FAA assumed a per-airplane average of 2,750 flight hours per year, a price of $0.61 per gallon of aviation fuel, and 0.23 additional gallons consumed per additional pound per flight hour. These assumptions resulted in per-airplane

annual costs of $400 for a 737 that adds 40 pounds and $100 for a 737 that adds 10 pounds. On that basis, the FAA estimated the total cost from the increased fuel consumption during 2001 and 2020 would have been $6.1 million, which has a present value of $3.6 million. There were no comments on this estimate.

In the Supplemental PRE, the underlying NPRM methodology is maintained but certain parameters are updated (from 2,750 to 3,360 flight hours per year and from $0.61 to $0.75 per gallon cost of aviation fuel). However, the FAA has revised the weight added by the retrofitted sensors and wiring for 737–300/400/500s from 10 pounds to 20 pounds. On that basis, the FAA now calculates that adding 40 pounds to a 737 would increase its annual fuel costs by $584, adding 20 pounds would increase its annual fuel costs by $292, and adding 10 pounds would increase its annual fuel costs by $146. These revised calculations result in a total fuel cost increase of $2 million between 2005–2014, which has a present value of $1.4 million.

In the NPRM, the FAA estimated that the incremental annual inspection and validation of a FDAU would cost $750. On that basis, the FAA estimated the total cost from the increased maintenance during 2001 and 2020 would have been $4.2 million, which has a present value of $2.7 million. As there were no comments on this estimate, the FAA has decided to retain it. Based on the number of 737s that would have had FDAUs introduced into the airplane and on the number that would have been retired between 2005 to 2014, the FAA calculates a total maintenance cost increase of $700,000, which has a present value of $535,000.

In the NPRM, the FAA estimated that the increased annual operational and maintenance costs between 2001 and 2020 would have been $10.3 million, which has a present value of $6.3 million. In the Supplemental PRE, the FAA calculates that the increased annual operational and maintenance costs between 2005 and 2014 are $2.7 million, which has a present value of $1.9 million.

Compliance Costs for Production 737s

In the NPRM, the FAA estimated a total cost for 737s manufactured between 2000 and 2020 of $86 million, which has a present value of $40.4 million, to install the equipment to record proposed flight data parameters (a)(89), (a)(90), and (a)(91). As previously discussed, the Supplemental PRE has taken into account Boeing's voluntary installation of this equipment on all its 737s since August 2000, indicating that the SNPRM would impose no compliance costs on production 737s.

Benefit-Cost Comments

In the NPRM, the FAA estimated that the expected present value of the benefits ($156 million) would have been less than the present value of the quantifiable total compliance costs ($214 million). However, the FAA noted there is considerable uncertainty about the potential number of future accidents. As a result, the FAA concluded that it was in general agreement with the NTSB recommendations that this information is needed.

Boeing disagreed with an aggregated benefit-cost approach and commented that an appropriate analysis should be based on an individual provision-by-provision (or, in this case, flight data parameter by flight data parameter) evaluation. In principle, the FAA agrees with the Boeing comment. However, the FAA has no data that can support a parameter-by-parameter cost calculation. All of the submitted retrofitting cost data were block costs in which no individual flight data parameter costs were provided. In practice, such a detailed benefits analysis presupposes the existence of an objective probability function based on an engineering analysis for each flight data parameter of the potential for the additional information to lead accident investigators to the cause of an accident. It is precisely because engineering analyses have been unable to determine the causes of these accidents that such individual probabilities cannot be determined. At best, current engineering analyses have established that one of this group of several flight data parameters, if recorded, may help to determine the causes of future accidents. As a result, the FAA has decided against reevaluating its benefit-cost analysis in the Supplemental PRE based on the individual flight data parameters.

Finally, Boeing commented that the FAA should analyze the proposed rule for individual airplanes based on their expected remaining service life with a possible view of exempting older 737s. The justification is that the potential benefits to any individual 737 airplane would be lower the shorter its remaining service life while the costs would not be similarly reduced. Although the FAA agrees that, for an individual 737, the incremental benefits received from a dollar of cost are lower for older airplanes, the FAA disagrees that this is an appropriate framework to analyze the recording requirements. The primary benefits attributable to this proposed rule do not accrue to the 737 that would have an accident, but, rather, to every other 737 that would not have a similar accident because engineering or operational changes that would prevent such future accidents would be developed from the flight data recorded from the accident or incident. The FAA is not able to correlate the potential probability of such an accident to the age of a 737. Accordingly, in any year, the FAA assumes that all 737s face an equal probability that an accident may occur to any one of them. If some 737s were exempted from the rule and if an uncontrolled rudder movement accident were to happen to one of those exempted airplanes, then no such future accident would be prevented for the 737 fleet because the necessary flight data would not have been recorded and no appropriate engineering or operational changes could have been made. However, in recognition of the potential economic impact, the FAA agrees with Boeing's suggestion that it is appropriate to limit the applicability of this rule to not include those 737s that have a limited remaining service life. Thus, this proposed rule would apply only to 737s that would be in service 4 years after the promulgation of the final rule.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 19805 U.S.C. 601–612, directs the FAA to fit regulatory requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation. The FAA is required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as defined in the ACT. If the FAA finds that the action will have a significant impact, the FAA must perform a ''regulatory flexibility analysis.'' However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify, and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

In the NPRM, the FAA prepared a Preliminary Regulatory Flexibility Analysis because the proposed rule might have had a significant economic impact upon a substantial number of small entities. The FAA had concluded, after that preliminary analysis, that the proposed rule may not have met that

criterion, but it reported its analysis and requested public comments. The FAA received no comments about the Preliminary Regulatory Flexibility Analysis.

However, subsequent to publication of the NPRM, the Office of Advocacy of the Small Business Administration published new guidelines that defined a small airline as one that has fewer than 1,500 employees. In 2003, the FAA performed a new Regulatory Flexibility Analysis for this SNPRM. In that analysis, of the 20 airlines that would be affected by the SNPRM, 12 have fewer than 1,500 employees and are small entities. Of these 12 airlines, one had a positive net operating income, seven had negative net operating income, and net operating income data were not available for four airlines. Twelve airlines is a substantial number of airlines and the cost per airplane is significant—particularly when the airline has negative net operating income.

Therefore, based on that information available at that time and the definition of a small business, the FAA Administrator has determined that the proposed rule could have a significant economic effect on a substantial number of small entities. Under the new definition, our preliminary conclusion is that it will have a significant economic impact.

This determination is explained in more detail in the Regulatory Flexibility Section of the Supplemental PRE. However, since the results of that evaluation are based on data that are not current, we are requesting that affected operators provide us with more current data to be used to update the Regulatory Flexibility Evaluation before any final rule is issued.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rulemaking and determined that it would have only a domestic impact and, therefore, no affect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments or on the private sector.

Section 202(a) (2 U.S.C. 1532) of Title II of the Act requires that each Federal agency, to the extent permitted by law, prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million. Section 203(a) of the Act (2 U.S.C. 1533) provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, an agency shall have developed a plan under which the agency shall:

(1) Provide notice of the requirements to potentially affected small governments, if any;

(2) Enable officials of affected small governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates; and,

(3) Inform, educate, and advise small governments on compliance with the requirements.

With respect to (2), Section 204(a) of the Act (2 U.S.C. 1534) requires the Federal agency to develop an effective process to permit elected officers of State, local, and tribal governments (or their designees) to provide the input described.

This rulemaking does not contain a significant Federal intergovernmental or private sector mandate because the compliance costs to the private sector would be about $48 million in each of the years 2005, 2006, and 2007, and no more than $3 million in any following year. Therefore, the requirements of Title II do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this rulemaking under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

IX. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312d and involves no extraordinary circumstances.

X. Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this SNPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

14 CFR Part 91

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 125

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes amending Chapter I of Title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

2. Amend § 91.609 by adding a new paragraph (h) as follows:

§ 91.609 Flight recorders and cockpit voice recorders.

* * * * *

(h) An aircraft operated under this part under deviation authority from part 125 of this chapter must comply with all of the applicable flight data recorder requirements of part 125 applicable to the aircraft, notwithstanding such deviation authority.

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, 46301.

4. Amend § 121.344 by removing the word ''and'' after paragraph (a)(87); by removing the period after paragraph (a)(88) and adding a semicolon in its place; by adding new paragraphs (a)(89), (90) and (91), (b)(4), (c)(4), (d)(3), (e)(3) and (m); and by revising paragraph (f) to read as follows:

§ 121.344 Digital flight data recorders for transport category airplanes.

(a) * * *

(89) Yaw damper status;

(90) Yaw damper command; and

(91) Standby rudder valve status.

(b) * * *

(4) In addition to the requirements of paragraphs (b)(1) through (b)(3) of this section, all Boeing 737 model airplanes must comply with the requirements of paragraph (m) of this section, as applicable.

(c) * * *

(4) In addition to the requirements of paragraphs (c)(1) through (c)(3) of this section, all Boeing 737 model airplanes must comply with the requirements of paragraph (m) of this section, as applicable.

(d) * * *

(3) In addition to the requirements of paragraphs (d)(1) and (d)(2) of this section, all Boeing 737 model airplanes also must comply with the requirements of paragraph (m) of this section, as applicable.

(e) * * *

(3) In addition to the requirements of paragraphs (e)(1) and (e)(2) of this section, all Boeing 737 model airplanes, also must comply with the requirements of paragraph (m) of this section, as applicable.

(f) For all turbine-engine-powered transport category airplanes manufactured after August 19, 2002—

(1) The parameters listed in paragraphs (a)(1) through (a)(88) of this section must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in appendix M to this part.

(2) In addition to the requirements of paragraphs (f)(1) of this section, all Boeing 737 model airplanes must also comply with the requirements of paragraph (m) of this section.

* * * * *

(m) In addition to all other applicable requirements of this section, all Boeing 737 model airplanes must record the parameters listed in paragraph (a)(1) through (a)(22) and (a)(88) through (a)(91) of this section within the ranges, accuracies, resolutions, and recording intervals specified in Appendix M to this part. The approved recorder and all equipment necessary to record the parameters required by this paragraph must be installed no later than the installation of the redesigned rudder system required by one or more Airworthiness Directives issued under part 39 of this chapter. The single-source recording provisions of paragraphs (b)(1)(ii), (c)(1), and (d)(1) of this section may be used for airplanes otherwise subject to those paragraphs.

5. Amend Appendix M to part 121 by revising item 88 and adding items 89 through 91 to read as follows:

Appendix M to Part 121—Airplane Flight Recorder Specifications—Continued

* * * * *

Parameter	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
88. All cockpit flight control input forces (control wheel, control column, rudder pedal).[18] [19]	Full range ..... Control wheel ±70 lbs. Control column ±85 lbs. Rudder pedal ±165 lbs.	±5%	1	0.2% of full range	For fly-by-wire flight control systems, where flight control surface position is a function of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1.
89. Yaw damper status.	Discrete (on/off)	.....	0.5		
90. Yaw damper command.	Full range	As installed	0.5	1% of full range.	
91. Standby rudder valve status.	Discrete	.....	0.5		

[18] For all 737 model airplanes: the seconds per sampling interval is 0.5 per control input; the remarks regarding the sampling rate do not apply; a single control wheel force transducer installed on the left cable control is acceptable provided the left and right control wheel positions also are recorded.

[19] For all 737 model airplanes manufactured on or before January 31, 2001, Range values are: Full Range; Control wheel ±15 lbs.; Control column ±40 lbs.; and Rudder pedal ±165 lbs.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

6. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

7. Amend § 125.3 by adding a new paragraph (d) to read as follows:

§ 125.3 Deviation authority.

* * * * *

(d) No deviation authority from the flight data recorder requirements of this part will be granted. Any previously issued deviation from the flight data recorder requirements of this part is no longer valid.

8. Amend § 125.226 by removing the word ''and'' after paragraph (a)(87); by removing the period after paragraph (a)(88) and adding a semicolon in its place; by adding new paragraphs (a)(89), (90), and (91), (b)(4), (d)(3), (e)(3), and (m); and by revising paragraph (f) to read as follows:

§ 125.226 Digital flight data recorders.

(a) * * *

(89) Yaw damper status;

(90) Yaw damper command; and

(91) Standby rudder valve status.

(b) * * *

(4) In addition to the requirements of paragraphs (b)(1) through (b)(3) of this section, all Boeing 737 model airplanes also must comply with the requirements of paragraph (m) of this section.

(c) * * *

(4) In addition to the requirements of paragraphs (c)(1) through (c)(3) of this section, all Boeing 737 model airplanes must comply with the requirements of paragraph (m) of this section, as applicable.

(d) * * *

(3) In addition to the requirements of paragraphs (d)(1) and (d)(2) of this section, all Boeing 737 model airplanes also must comply with the requirements of paragraph (m) of this section, as applicable.

(e) * * *

(3) In addition to the requirements of paragraphs (e)(1) and (e)(2) of this section, all Boeing 737 model airplanes, also must comply with the requirements of paragraph (m) of this section, as applicable.

(f) For all turbine-engine-powered transport category airplanes manufactured after August 19, 2002—

(1) The parameters listed in paragraphs (a)(1) through (a)(88) of this section must be recorded within the ranges, accuracies, resolutions and recording intervals specified in appendix E to this part.

(2) In addition to the requirements of paragraph (f)(1) of this section, all Boeing 737 model airplanes must also comply with the requirements of paragraph (m) of this section.

* * * * *

(m) In addition to all other applicable requirements of this section, all Boeing 737 model airplanes must record the parameters listed in paragraph (a)(1) through (a)(22) and (a)(88) through (a)(91) of this section within the ranges, accuracies, resolutions, and recording intervals specified in Appendix E to this part. The approved recorder and all equipment necessary to record the parameters required by this paragraph must be installed no later than the installation of the redesigned rudder system required by one or more Airworthiness Directives issued under part 39 of this chapter. The single-source recording provisions of paragraphs (b)(1)(ii), (c)(1), and (d)(1) of this section may be used for airplanes otherwise subject to those paragraphs.

9. Amend Appendix E to part 125 by revising item 88, and adding items 89 through 91 to read as follows:

Appendix E to Part 125—Airplane Flight Recorder Specifications—Continued

* * * * *

Parameter	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
88. All cockpit flight control input forces (control wheel, control column, rudder pedal).[18] [19]	Full range ..... Control wheel ±70 lbs. Control column ±85 lbs. Rudder pedal ±65 lbs.	±5%	1	0.2% of full range	For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1.
89. Yaw damper status.	Discrete (on/off)	.....	0.5		
90. Yaw damper command.	Full range	As installed	0.5	1% of full range.	
91. Standby rudder valve status.	Discrete	.....	0.5		

[18] For all 737 model airplanes: the seconds per sampling interval is 0.5 per control input; the remarks regarding the sampling rate do not apply; a single control wheel force transducer installed on the left cable control is acceptable provided the left and right control wheel positions also are recorded.

[19] For all 737 model airplanes manufactured on or before January 31, 2001, Range values are: Full Range; Control wheel ±15 lbs.; Control column ±40 lbs.; and Rudder pedal ±165 lbs.

* * * * *

Issued in Washington, DC, on August 25, 2006.

John J. Hickey,

Director, Aircraft Certification Service.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Alexander Valley, Sonoma County, CA; comments due by 9-15-06; published 7-17-06 [FR E6-11080]

Snake River Valley, ID and OR; comments due by 9-15-06; published 7-17-06 [FR E6-11078]

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:

Home school programs; dependent entitlement to monetary benefits; definitions; comments due by 9-11-06; published 7-13-06 [FR E6-10969]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4646/P.L. 109–273

To designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the "Coach John Wooden Post Office Building". (Aug. 17, 2006; 120 Stat. 773)

H.R. 4811/P.L. 109–274

To designate the facility of the United States Postal Service located at 215 West Industrial Park Road in Harrison, Arkansas, as the "John Paul Hammerschmidt Post Office Building". (Aug. 17, 2006; 120 Stat. 774)

H.R. 4962/P.L. 109–275

To designate the facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, as the "Captain George A. Wood Post Office Building". (Aug. 17, 2006; 120 Stat. 775)

H.R. 5104/P.L. 109–276

To designate the facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, as the "Morris W. Milton Post Office". (Aug. 17, 2006; 120 Stat. 776)

H.R. 5107/P.L. 109–277

To designate the facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, as the "Earl D. Hutto Post Office Building". (Aug. 17, 2006; 120 Stat. 777)

H.R. 5169/P.L. 109–278

To designate the facility of the United States Postal Service located at 1310 Highway 64 NW. in Ramsey, Indiana, as the "Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office". (Aug. 17, 2006; 120 Stat. 778)

H.R. 5540/P.L. 109–279

To designate the facility of the United States Postal Service located at 217 Southeast 2nd Street in Dimmitt, Texas, as the "Sergeant Jacob Dan Dones Post Office". (Aug. 17, 2006; 120 Stat. 779)

H.R. 4/P.L. 109–280

Pension Protection Act of 2006 (Aug. 17, 2006; 120 Stat. 780)

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1	(869–060–00001–4)	5.00	[4]Jan. 1, 2006
2	(869–060–00002–0)	5.00	Jan. 1, 2006
3 (2003 Compilation and Parts 100 and 101)	(869–056–00003–1)	35.00	[1] Jan. 1, 2005
4	(869–060–00004–6)	10.00	Jan. 1, 2006
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700–1199	(869–060–00006–2)	50.00	Jan. 1, 2006
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6	(869–060–00008–9)	10.50	Jan. 1, 2006
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210–299	(869–060–00012–7)	62.00	Jan. 1, 2006
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900–999	(869–060–00016–0)	60.00	Jan. 1, 2006
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1940–1949	(869–060–00021–6)	50.00	Jan. 1, 2006
1950–1999	(869–060–00022–4)	46.00	Jan. 1, 2006
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8	(869–060–00024–1)	63.00	Jan. 1, 2006
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51–199	(869–060–00028–3)	58.00	Jan. 1, 2006
200–499	(869–060–00029–1)	46.00	Jan. 1, 2006
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11	(869–060–00031–3)	41.00	Jan. 1, 2006
12 Parts:			
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220–299	(869–060–00034–8)	61.00	Jan. 1, 2006
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60–139	(869–060–00041–1)	61.00	Jan. 1, 2006
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200–1199	(869–060–00043–7)	50.00	Jan. 1, 2006
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141–199	(869–060–00057–7)	58.00	Apr. 1, 2006
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200–299	(869–060–00065–8)	17.00	Apr. 1, 2006
300–499	(869–060–00066–6)	30.00	Apr. 1, 2006
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50–299	(869–060–00096–8)	42.00	Apr. 1, 2006

Title	Stock Number	Price	Revision Date
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*43–End	(869–060–00103–4)	60.00	July 1, 2006
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*1910 (§§ 1910.1000 to end)	(869–060–00109–3)	46.00	July 1, 2006
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1927–End	(869–056–00112–6)	62.00	July 1, 2005
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63 (63.600–63.1199)	(869–056–00147–9)	50.00	July 1, 2005
63 (63.1200–63.1439)	(869–056–00148–7)	50.00	July 1, 2005
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Title	Stock Number	Price	Revision Date
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600–999	(869–056–00210–6)	19.00	Oct. 1, 2005
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600–End	(869–056–00219–0)	62.00	Oct. 1, 2005
CFR Index and Findings Aids	(869–060–00050–0)	62.00	Jan. 1, 2006
Complete 2006 CFR set		1,398.00	2006
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2006
Individual copies		4.00	2006
Complete set (one-time mailing)		325.00	2005
Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.

[10] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

[11] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.